

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

### Statement of Regulatory Priorities

#### EPA's Commitment to Change

When President Clinton and Vice President Gore came into office more than 2 1/2 half years ago, they made a public commitment to simplifying, streamlining, and reducing the costs of the Federal Government. While emphasizing the importance of the Federal Government's functions, they made it clear that those functions could be carried out in commonsense, cost-effective ways. The reinvention and improvement of the Federal Government thus has been one of the hallmarks of the Clinton Administration.

Administrator Browner of EPA has made that same commitment to simplify, streamline, and reduce the costs of Federal programs to better protect the environment and public health. She has applied common-sense principles to all EPA's actions in order to promote cleaner, cheaper, and smarter environmental and public health protection. As a result, EPA today is in the midst of the most profound and comprehensive reevaluation and change in its history.

The Agency is changing its internal operations—restructuring organizations, streamlining management, and broadening employee responsibilities. It is changing its external relationships—shifting more responsibility to States, improving customer service, strengthening stakeholder partnerships, and emphasizing the constructive involvement of regulated entities. The Agency is reinventing itself with one eye on the past—building on the lessons learned through a quarter-century of regulatory experience. And it is reinventing itself with one eye on the future—developing a new generation of environmental protection to meet the emerging challenges of the 21st century.

Although the current environmental protection system has generated a cleaner environment, with substantial human health and ecological benefits, over the past 25 years, the system will not be sufficient to meet the environmental and economic challenges of the future. The health of the economy, the health of the American people, and the health of the environment are inextricably intertwined, and the linkages among them are becoming more complex over time. EPA is changing so that it is better

prepared to protect and enhance all three simultaneously in the future.

EPA is the single Federal organization with primary responsibility for protecting the environment, and the Agency is committed to using all available tools—regulatory and nonregulatory—to protect the environment and public health of all Americans. At the same time, because EPA is only one of many entities—public and private—with environmental responsibilities, EPA is working to ensure that more information and decisionmaking are shared with the States, tribes, and communities affected by EPA's actions.

EPA is reshaping its environmental and public health protections to make them simpler and more sensible, especially to regulated entities. In many cases, all stakeholders, including businesses, communities, labor, and public interest groups, are participating in developing new, more effective, less costly approaches. EPA's employees are taking on new responsibilities in new programs: Enforcers are emphasizing compliance assistance, permittees are paying more attention to pollution prevention and market mechanisms, and rule writers are adopting innovative alternatives proposed by regulated industries, without sacrificing one ounce of public health protection. Resources are being targeted where risks are the greatest, and programs are being scaled back, if necessary, where risks are the least. Most important, EPA is emphasizing environmental and public health results, not the fulfillment of regulatory mandates, as its primary goal, because flexibility, good stewardship, and strong partnerships between the public and private sectors inspire better solutions to public health and environmental problems.

#### The Process

Although EPA's commitment to public health and environmental quality remains undiminished, the Agency is refining and improving the methods it uses to protect them. EPA has undertaken a number of reinvention efforts, such as the Common Sense Initiative and line-by-line review of its regulations, either on its own or in response to Presidential directives. On March 16, 1995, President Clinton announced 39 additional EPA projects that will further the reinvention of public health and environmental regulations.

Reinvention at EPA is not the sum of all the new activities currently underway. Neither is it an overlay of

new activities in addition to the traditional work of the Agency. Rather, reinvention is the fundamental, comprehensive change of EPA, both in terms of its internal organization and external relationships, so that the Nation achieves more public health and environmental benefits at less cost by using a system that makes more sense to all the people involved. Thus most of EPA's regulatory activities in the years ahead will incorporate parts of, or respond to, this overall reinvention effort at the Agency.

EPA's reinvention effort is intended to achieve two distinct purposes. First, it is aimed at strengthening the current system, which is largely composed of regulations driven by existing environmental laws that mandate action by regulated entities and, in many cases, specify public health and environmental goals. Second, EPA is building a new system that will use innovative, nonprescriptive, consensus-based techniques to achieve environmental and public health goals beyond those set by existing laws.

#### *Strengthening the Current System*

EPA is strengthening the current regulatory system in three basic ways by:

##### 1. Simplifying Regulations and Reporting Requirements

The Agency is reexamining all environmental regulations and reporting requirements now in place in order to simplify and streamline them, and to reduce the time and costs associated with them, without compromising public health or the environment. For example, last February the President announced that all Federal agencies would conduct a line-by-line review of their regulations and then eliminate those that were obsolete or redundant. EPA is proposing to delete more than a thousand pages from the Code of Federal Regulations or more than 10 percent of the pages currently devoted to EPA regulations. In response to the President's March 16 directive to reduce paperwork requirements imposed on regulated entities by 25 percent, the Agency is identifying all monitoring, recordkeeping, and reporting requirements that can be eliminated. EPA is developing a one-stop emissions report (consolidating multiple environmental reports that businesses now are required to submit to the Agency) and a consolidated air rule (combining all Federal air quality regulations facing a specific industry into one comprehensive rule). EPA also has established a permits improvement

team to streamline permit programs, reduce their administrative costs, and enhance pollution prevention and public participation in the permitting process. Many of the rules in EPA's regulatory plan and regulatory agenda will help accomplish this kind of simplification and streamlining.

## 2. Defining New Roles and Responsibilities

Reinvention necessarily involves changing the relationships among EPA offices and between EPA and the various stakeholders involved in and affected by environmental protection programs. Externally, EPA is encouraging increased authority and flexibility for State, tribal, and local governments through its State capacity building project and Performance Partnership Grants. EPA also is consulting regularly with regulated industries early in rule development by relying on types of consensus-based rulemaking, such as regulatory negotiation. Internally, EPA is streamlining management by reducing the ratio of supervisors to employees and reorganizing virtually every program and regional office. EPA also is reshaping the budget process to support reinvention initiatives and principles.

## 3. Retargeting Existing Programs to Achieve Better Results

EPA is proposing specific, targeted improvements in existing programs. For example, EPA is modifying the Resource Conservation and Recovery Act (RCRA) program to refocus hazardous waste regulations on the high risk wastes. In addition, EPA convened a multistakeholder process to identify specific RCRA requirements that could be revised to reduce costs and increase environmental benefits. The Agency is recommending changes in EPA's drinking water program to focus drinking water treatment requirements on the highest risks to public health. EPA also will expand pollution trading markets in specific airsheds and watersheds to increase flexibility and reduce costs. Again, the entries in EPA's regulatory plan will help accomplish these improvements.

### *Building a New Generation of Environmental Protection*

Strengthening the existing regulatory system will not, by itself, do enough to achieve EPA's reinvention goals. So EPA is testing new, innovative ideas that promise either lower costs, greater environmental benefits, or both. Three basic kinds of new activities will help EPA build a new system that ensures a

new generation of environmental protection:

## 1. Industry and Facility-Based Programs

EPA is redesigning the regulatory system so that it makes more sense to the regulated community and costs less, while achieving greater environmental and public health benefits. The Common Sense Initiative (CSI)—the centerpiece of this effort—is bringing together representatives from industry, public interest and environmental justice organizations, labor, and State and local governments to find better ways of achieving environmental goals in six specific industries. Under Project XL, which promotes environmental excellence and leadership, specific facilities, whole industries, and government agencies subject to environmental regulations are testing new strategies that simplify procedures, reduce costs, and provide greater environmental benefits than under the current system. EPA's Design for the Environment project is testing the use of innovative designs, processes, and materials that improve both environmental and economic performance in specific industries.

## 2. Community-Based Programs

To increase the effectiveness of environmental programs, EPA is coordinating and integrating environmental protection efforts in specific places like local communities and ecosystems. Building on place-based approaches used in successful ecosystem management and watershed protection programs, the Agency will initiate XL for Communities to integrate environmental quality and economic development goals in specific communities. EPA also is working with communities and States to identify and provide site-specific risk assessment tools to help local decisionmakers determine their environmental priorities. To promote place-based planning for sustainable development, EPA is providing Sustainable Development Challenge Grants to several communities through a national competition.

## 3. New Results-Based Tools

Over the long term, EPA will shift its focus, and the focus of regulated industries, away from meeting narrowly defined regulatory requirements and toward the achievement of environmental results. Thinking about results unleashes innovation and helps the public and private sector find new solutions to old problems. EPA is experimenting with several results-based tools that will help businesses

and communities better focus their efforts and thus achieve better environmental results. To improve compliance with environmental regulations, for example, EPA will provide compliance incentives for small businesses and communities, and it will establish compliance assistance centers for small businesses as well. To collect the information necessary to measure environmental results, and to indicate where further efforts are needed, EPA will establish a center for environmental information and statistics and ensure public electronic access to EPA information. Finally, EPA already has initiated a series of voluntary programs that prevent or control pollution and, in many cases, lead directly to economic benefits.

### Highlights of EPA's Regulatory Plan for 1996

The entries contained in EPA's regulatory plan reflect the Agency's continuing commitment to streamline and simplify its regulatory programs to achieve better environmental results at less cost. Many of these entries are designed to implement the new directions discussed above. While many of EPA's new directions are nonregulatory in nature, the Agency's entries focus on those changes that can be made through its regulatory activities. Here are some of the highlights of this ongoing commitment.

### *Office of Air and Radiation*

EPA is committed to using the flexibility granted by the Clean Air Act to enable companies, communities, and individuals to protect public health by meeting clean air goals using innovative approaches at lower costs. The Office of Air and Radiation is committed to nearly 200 changes in existing rules and is changing many forthcoming rules to reflect the common-sense principles of the reinvention effort.

EPA recently issued an advance notice of proposed rulemaking requesting comment from the public on the need and potential for additional reduction of nitrogen oxides, hydrocarbons, and particulate matter from mobile heavy-duty engines. This action initiates work on a proposed rulemaking to establish standards for model year 2004 and later heavy-duty highway engines. The rulemaking seeks to bring together potentially affected industries, States, regional air management organizations, and public health and environmental interest groups to further their mutual goal of reducing emission of harmful air pollutants.

Building on successful State programs, EPA has been working with stakeholders to develop a more streamlined process for permit revisions to help facilities obtain required operating permits from State or local agencies. Under the proposed change, States would have greater flexibility to decide the amount of EPA and public review for most permit revisions by matching the level of review to the environmental significance of the change.

EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance air quality and thus protect public health. In this regard, EPA will issue a final policy and model rule for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility for companies to trade emission credits without prior State or Federal approval. EPA believes this action will ensure compliance with the established ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

EPA also plans to modify requirements in two other significant air regulatory programs. We will propose changes to simplify and streamline the New Source Review program which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems.

In addition, EPA plans to amend the original transportation conformity rule to streamline the conformity process and provide additional flexibility for State and local transportation and air quality agencies. This rulemaking, initiated in response to stakeholder concerns, will further enhance State and local governments' ability to meet requirements under the Clean Air Act Amendments of 1990 in common-sense, cost-effective ways and ensure that transportation plans do not further exacerbate existing air quality problems.

Other significant activities related to EPA's air programs include reviews of the national ambient air quality standards for sulphur dioxide, ozone, and particulate matter. The sulphur dioxide review is intended to examine existing standards to determine whether further protection for certain exposed individuals is needed. The ozone and particulate matter reviews seek to incorporate new scientific and technical

information that has become available since the last reviews.

EPA will issue a final rule implementing a 49-State low-emission vehicle program. It is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's low-emission vehicle program. EPA anticipates that this program would relieve the 13 States in the northeastern part of the country of the December 1994 regulatory obligation to adopt their own motor vehicle programs. The rulemaking also harmonizes Federal and California low-emission vehicle standards and test procedures to enable automakers to design and test vehicles to one set of standards nationwide.

In further efforts to provide flexibility and adhere to common-sense principles, EPA will issue final rules in the areas of medical waste incinerators and municipal waste combustion that have incorporated comments from industry and many small entities. The emissions limits established under these rules are part of EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan.

EPA will propose an integrated rule for the pulp and paper industry that deals with both effluent guidelines and air emission standards to control the release of pollutants to both water and air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable industry to more effectively plan compliance via a multimedia approach.

Finally, EPA is planning a proposed rule that will introduce additional flexibility into its compliance-assurance monitoring program. This action focuses on preventing pollution rather than imposing additional command-and-control regulations. This is a significant change in Agency direction for implementation of the monitoring and compliance certification requirements in titles V and VII of the Clean Air Act. The goal of the action is to provide reasonable assurance of compliance rather than a direct connection between monitoring and certification and will reduce the emphasis on assuring compliance through the threat of enforcement. Instead, this approach emphasizes assuring compliance by

placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

#### *Office of Water*

EPA is streamlining four of its water-related programs to reduce burdens associated with them and to provide additional flexibility: National Pollutant Discharge Elimination System (NPDES) permits, national primary drinking water regulations, the pretreatment program, and water-quality planning and management. EPA estimates that 80 percent of regulations published under the jurisdiction of the Office of Water are undergoing change or modification. The following are highlights of efforts in 1996.

In the NPDES permits program (Part 122), EPA is removing outdated requirements, streamlining permit application and modification procedures, and reducing monitoring and reporting requirements. For example, EPA will consolidate and revise industrial and municipal permit application requirements and forms and streamline the application process. It will also revise the permit application requirements for municipal separate storm water sewer systems to reduce significantly the cost and burden of reapplication for succeeding permit terms. EPA will not require resubmission of information available from the earlier application or not pertinent to the approval process.

EPA is planning a major revision of the NPDES (Part 141) that will have a number of benefits for States and the regulated community. First, EPA will delete a number of obsolete provisions and simplify and reformat the remaining regulations to make it easier for managers of public water systems to understand and implement the requirements and for State officials to enforce. EPA will also streamline the public notification requirements to allow States more flexibility to design programs that will ensure notice to the public in a timely and effective manner.

Regulations in the pretreatment program for publicly owned treatment works (POTWs) (Part 403) will be streamlined and revised to delete obsolete requirements, simplify program operation, and eliminate unnecessary reporting requirements. For example, under streamlined procedures, only the most significant elements of an approved pretreatment program would be included in a POTW's NPDES permit, eliminating the need for a permit revision every time small

changes are made to the pretreatment program.

EPA is undertaking revisions in its requirements for water-quality planning and assessment and waterbody listing requirements for State water-quality management programs. EPA will be soliciting public comment in the near future, through an advance notice of proposed rulemaking, on potential revisions to this program.

In addition, the Agency will be pursuing innovative, nonregulatory approaches, such as effluent trading within watersheds, to realize cost savings and reduce water pollution.

#### *Office of Prevention, Pesticides, and Toxic Substances*

The Office of Prevention, Pesticides, and Toxic Substances is using existing authorities under the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to decrease cost and burden to regulated entities, while at the same time providing additional flexibility. EPA will be amending or deleting 88 percent of its pesticides and toxics regulations that are currently in the Code of Federal Regulations. Among their major efforts in the coming year are the following actions:

As a follow up to the President's announcement in August of this year in support of Community Right to Know (CRTK), a proposed rule is being developed that will expand the universe of sources that are currently required to be reported to the Toxics Release Inventory (TRI). The TRI is a data base that provides communities with information on releases to air, water, and land of approximately 600 toxic chemicals. Currently, only the manufacturing sector collects TRI data. The upcoming rule will propose to require reporting from other sources of toxic chemicals that pose potentially significant risks to communities.

By the summer of 1996, EPA plans to issue a rule that will make over 50 modifications, additions, and deletions to the existing management program for polychlorinated biphenyls (PCBs) under TSCA. This rulemaking is the first comprehensive review of the PCB regulations in 17 years. The modification will allow currently prohibited activities which do not pose an unreasonable risk of injury to health and the environment.

In the area of pesticide regulation, a significant action in the prerule stage is the effort to evaluate self-certification as a possible approach to reinventing the

registration process for pesticides. As one of the approaches under consideration, self-certification would allow a registrant to certify that a registration application (or part of it) complies with Agency requirements and then obtain EPA approval for the registration after an abbreviated review or no review at all.

Pursuant to its data-consolidation initiative, EPA is developing a proposed regulation for collecting uniform facility identification information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws and will substantially reduce regulatory burden for facilities.

Finally, as part of President Clinton's directive to conduct a comprehensive review of the regulations, EPA has identified a number of pesticides and toxics regulations that can be eliminated from the Code of Federal Regulations or otherwise modified to reduce regulatory burden. EPA is seeking comments from the public and affected stakeholders to develop specific recommendations to reduce burden or duplication or streamline requirements. As these actions are developed, they will be included in the regulatory agenda as appropriate.

#### *Office of Solid Waste and Emergency Response*

The Office of Solid Waste and Emergency Response (OSWER) is planning to propose a number of actions that would streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA). As part of its effort to refocus hazardous waste regulation on high-risk wastes, EPA seeks to tailor standards to the nature or degree of risk posed by particular wastes. Toward this end, EPA is undertaking a number of actions in 1996 to implement this goal.

A rule entitled "Hazardous Waste Identification: Contaminated Media," is designed to resolve problems with the current RCRA cleanup program by deregulating large volumes of low-risk contaminated media (e.g., soil). The Agency will also create a more common-sense regulatory structure for those clean-up wastes that remain regulated.

Also related to hazardous waste identification is an action to modify certain regulations distinguishing "listed" hazardous waste. Certain current regulations, including the "mixture" and "derived from" rules, apply to listed wastes regardless of the concentrations and the mobility of

toxicant in the waste, thereby regulating certain low-risk wastes and, in particular, treatment residuals. The modifications will establish exemption standards for these low-risk "listed" hazardous waste management requirements.

As part of its corrective action program, EPA will publish an advance notice of proposed rulemaking dealing with solid waste management units at hazardous waste management facilities. EPA believes final regulations are needed in this area to promote national consistency, clarify corrective action requirements, and reduce the number of site-specific negotiation and legal challenges. The public will be asked to comment on several alternatives presented in the notice.

EPA also plans to establish new emissions standards for hazardous waste combustors under joint Clean Air Act and RCRA authority. These revised standards will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry while enhancing EPA's ability to be adequately protective of human health and the environment in the areas of chlorinated dioxins and furans.

Finally, EPA will also issue an advance notice of proposed rulemaking concerning the definition of solid waste and regulations for hazardous waste recycling. This action will simplify and clarify what wastes/processes are and are not subject to RCRA jurisdiction.

#### *Summary*

In addition to these actions, EPA's Regulatory Plan contains entries on:

- Review of the Federal test procedures for emissions from vehicles and motor vehicle engines;
- Emission standards for new nonroad spark-ignition engines at and below 19 kilowatts;
- The risk management program for chemical accidental release prevention;
- Land disposal restrictions—phase III, decharacterized wastewaters, carbamate wastes, and spent aluminum potliners;
- Land disposal restrictions—phase IV, treatment standards for certain mineral processing wastes; TC metals, newly listed wastes from wood preserving and from dyes and pigments;
- Effluent guidelines and standards for the metal products and machinery category (phase I); and
- Selected rulemakings for abating lead hazards.

In developing these required actions EPA is committed to flexible, common-sense, cost-effective regulatory programs that protect human health and the environment.

EPA

PRERULE STAGE

100. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

33 USC 1313/CWA 303

CFR Citation:

40 CFR 130

Legal Deadline:

None

Abstract:

Section 303(d) of the Clean Water Act (CWA) requires States to identify waters still requiring total maximum daily loads (TMDLs). The TMDL is a tool for achieving State water quality standards. The TMDL process provides a framework for solving point and nonpoint source pollution problems in an integrated fashion. Current regulations implementing section 303(d) require States to submit their list of waters requiring TMDLs to the Environmental Protection Agency (EPA) every 2 years. This action will revise existing regulations to require States to submit their 303(d) list of waters still requiring TMDLs to EPA every 5 years rather than every 2 years. This revision is part of EPA's goal to comprehensively characterize State waters every five years. Currently, waters are identified on a number of lists as required by the CWA sections 303(d), 305(b), 314(a), and 319(a). The Federal Register notice proposing the revision will also announce the availability of supplemental TMDL guidance which will clarify the definition of a TMDL.

Statement of Need:

EPA identified this rule revision in response to the President's request to undertake a line-by-line review of the parts of the Code of Federal Regulations relevant to the Agency's programs. This revision should reduce the burdens associated with the Water Quality Planning and Management Program and make it more efficient. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included a commitment to streamline the Program.

Summary of the Legal Basis:

EPA has no statutory or court obligation to complete this rule.

Anticipated Costs and Benefits:

Firm cost-benefit data is not available at this time.

Risks:

EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/95	
NPRM	02/00/97	
Final Action	12/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

State, Tribal, Federal

Analysis:

Regulatory Flexibility Analysis

Additional Information:

SAN No. 3700.

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EPA

101. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6924/RCRA 3004(u), 3004(v)

CFR Citation:

40 CFR 264; 40 CFR 270

Legal Deadline:

None

Abstract:

Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency plans to issue the corrective action regulations in several phases. Phase I was issued in February 1993 (i.e., regulations concerning Corrective Action Management Units (CAMU)). The next task will include issuing an advance notice of proposed rulemaking (ANPRM). The following phase (Phase II) will include finalizing certain provisions of the July 27, 1990, proposal at the same time as issuing a proposal that includes a reproposal of some provisions from the July 1990 notice plus some new provisions. The last phase (Phase III) will involve finalizing the newly proposed provisions.

Statement of Need:

The corrective action program is currently being implemented using minimal regulatory authorities; the proposed Subpart S rule has been used as guidance since July 1990. The Agency thinks final regulations are needed to promote national consistency, clarify corrective action requirements, and reduce the amount of site-specific negotiations and legal challenges, thereby promoting faster, more efficient cleanups.

In addition, some stakeholders have told the Agency that the current corrective action process can be too slow and expensive. The Agency is currently exploring additional options which could make cleanups faster and

more efficient, without sacrificing protectiveness or public involvement. This rulemaking may be used to propose regulatory changes necessary to implement these options.

#### Alternatives:

The Agency is currently evaluating a number of alternatives that are aimed at achieving the following primary objectives: (a) create a more consistent, holistic approach to cleanup at RCRA facilities; (b) establish protective, "common-sense" cleanup expectations; (c) encourage the regulated community to conduct voluntary/proactive cleanups; (d) provide meaningful and inclusive opportunities for public involvement throughout the cleanup process.

The Agency plans to use an ANPRM, (see schedule below) to discuss rulemaking alternatives in greater detail. Some of the alternatives currently under consideration include: relying on performance criteria rather than prescriptive requirements; allowing for greater consideration of industrial and other nonresidential land uses; and promoting greater consistency between cleanup actions at individual areas of a RCRA site.

#### Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

#### Risks:

The objective of establishing protective, "common-sense" cleanup expectations reflects, in part, the Agency's position that the scope of remedial actions should accurately reflect the risks posed by the contamination. The Agency intends to design the rule with flexibility sufficient to select smart and cost-effective remedies in order to achieve the Agency's risk-reduction objectives more efficiently. More quantitative evaluation of the risks and risk reduction associated with this rule will be included in the economic analysis.

#### Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	12/00/95	
NPRM	00/00/00	
Final Action	00/00/00	
<b>(Phase II)</b>		
Final Action	00/00/00	
<b>(Phase III)</b>		
Final Action	00/00/00	

#### Small Entities Affected:

None

#### Government Levels Affected:

State, Federal

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 2390.

The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The Subpart S rule is an important component of EPA's regulatory efforts to refocus hazardous waste regulation on high-risk wastes and to expedite cleanups.

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#### EPA

### PROPOSED RULE STAGE

#### 102. • DATA CONSOLIDATION INITIATIVE; KEY IDENTIFIERS REPORTING

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

FIFRA, TSCA, RCRA, CAA, SDWA, PPA, etc.

#### CFR Citation:

Not yet determined

#### Legal Deadline:

None

#### Abstract:

Using the various EPA regulatory authorities, the Environmental Protection Agency (EPA) EPA is developing a proposed regulation for collecting uniform facility identification

information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws, and is expected to substantially reduce regulatory burden for facilities. This action will provide more meaningful access to environmental data and is the foundation for moving forward the longer-term vision of full data integration and uniform reporting.

#### Statement of Need:

Facilities currently subject to Federal environmental data collections must submit facility identification information with each of a variety of individual data submissions to EPA or the State. The Key Identifiers Rule is a necessary first step toward consolidation of such reporting requirements. The facilities involved must periodically supply and update varying combinations of facility identification data to different data collections. Many of these facility data elements are common, such as name, address, standard industrial classification (SIC) code, and parent company identification. Burden to continually supply such data in varying formats can be reduced by establishing one authoritative record for each facility. A new, unique identification number would be supplied to the facility and it would become the "key" to this reduced facility data reporting. Entering this key id number on any given reporting form would signal that the Agency or State has a detailed record on file.

#### Alternatives:

An alternative to this rule would be to amend rules authorizing each current, individual data collection to require a uniform set of facility identification data elements. This approach may provide the same data elements submitted but would not necessarily promote the establishment and maintenance of a uniform record for each facility because such forms may be completed with differing entries over time.

#### Anticipated Costs and Benefits:

Costs estimates are not yet available. Benefits to the facility include lower overall reporting burden and the ability to determine the status of its submission records maintained by EPA and the State. EPA and the State will increase their data management efficiency by having this common identifier for the facility in each relevant data system. This action will

also provide the foundation for later consolidated reporting initiatives.

#### Risks:

This rule will assist in the evaluation of risks to human health and the environment by improving the coordination of existing environmental data sources.

#### Timetable:

Action	Date	FR Cite
NPRM	12/00/95	
Final Action	09/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Analysis:

Regulatory Flexibility Analysis

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#### EPA

### 103. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

#### Priority:

Other Significant

#### Legal Authority:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

#### CFR Citation:

40 CFR 372

#### Legal Deadline:

None

#### Abstract:

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was imposed under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). The Environmental Protection Agency (EPA) is considering expanding this original list. EPCRA section 313(b)(1)(B) and

(b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. EPA is currently conducting analysis to determine which SIC codes (or portions thereof) should be considered for coverage in TRI. Facilities in a broad set of industries are under consideration, including but not limited to, electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities.

#### Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across America. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet TRI collects data from only the manufacturing sector, and for only a subset of toxic chemicals that are introduced into the environment. Congress gave EPA the authority to expand TRI, both in terms of the chemicals reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools, and businesses. Manufacturing facilities account for only a portion of the toxic chemicals released in the United States. EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to reduce this burden.

The industries under consideration for addition to TRI would conceivably add significantly to the data available to the public on toxic chemical releases. For this proposal, industries will be selected based on a number of factors including the importance of the releases to the community, the relative rank of release estimates, the relationship of activities in these industries to manufacturing, and the compatibility of these activities with current reporting requirements.

#### Alternatives:

Although data on releases from many of the facilities under consideration can

be found, there is no centralized, publicly available, comprehensive, easily understandable, or consistently collected source of information for the public on toxic chemical releases from facilities outside of manufacturing. EPA has examined all available data sources, including information reported under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act, as well as other sections of EPCRA, State data collection programs, and available data provided by industry. EPA can find no information comparable to the data which TRI provides the American public. Consequently, there are only two alternatives to the expansion of TRI reporting requirements to cover additional facilities: voluntary reporting by facilities or a determination that any additional information TRI might collect from these facilities is of little or no value in terms of community right-to-know.

#### Anticipated Costs and Benefits:

The anticipated costs of this action are unknown at present. The addition of facilities to TRI is intended to expand upon the past success of the program in enabling all interested parties to establish credible baselines and to set realistic goals over time. The information reported in TRI increases knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

#### Risks:

Manufacturing facilities, which are currently required to report to TRI, represent only a portion of the facilities that release toxic chemicals in the United States. Although what portion of releases these facilities represent is uncertain, the Congressional Office of Technology Assessment has estimated that the original chemical and facility coverage of TRI in 1987 resulted in data on only 5 percent of releases in the U.S. EPA believes that the public has a right to know about such releases and about what facilities are doing to manage wastes. The public can then use this data to evaluate potential risks

from these facilities and to determine how to avoid these risks.

**Timetable:**

Action	Date	FR Cite
NPRM	03/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3034.

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**RIN:** 2070-AC71

**EPA**

**104. • CFR REGULATORY REVIEW  
RELATED INITIATIVES**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

40 USC 11013 EPCRA 313

**CFR Citation:**

0 CFR 150 to 189; 40 CFR 372; 40 CFR 700 to 799

**Legal Deadline:**

None

**Abstract:**

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. The Office of Prevention Pesticides, and Toxic Substances (OPPTS) has reviewed regulations under its purview, that is, those issued under the Federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). As a result of that review, OPPTS identified a number of regulations that can be eliminated from the CFR; in addition, OPPTS also identified a significant number of potential burden-reduction and streamlining opportunities through modifications to regulations and is further evaluating other regulations to determine if they can be simplified or streamlined. The Agency plans to involve the public as much as possible by soliciting comments and conducting stakeholder meetings and consultations.

**Statement of Need:**

There are many regulations currently on the books that pertain to pesticides and toxic chemicals. Some regulations are obsolete or are no longer applicable to the Agency's current needs, some are confusing, and many have become overly burdensome to all concerned, both the public and EPA. The goal of this project is to assess the regulations from a common-sense approach. The objectives are multifold: to identify regulations in the CFR that are confusing, contradictory, unnecessary, or not written in plain English; evaluate the underlying programs described by the regulations for streamlining possibilities; and seek opportunities to reduce reporting and recordkeeping burdens. OPPTS has identified regulations in the CFR which would benefit from modifications or which require evaluation prior to proposing specific recommendations. Current activities focus on determining the extent to which its regulations could be changed to achieve the objectives of the Regulatory Review initiative without sacrificing health or environmental protection. Changes are being considered at all levels and include, in addition to regulatory changes, procedural changes, policy changes, administrative changes, and legislative changes.

**Alternatives:**

Alternatives are being explored continually. Public suggestions and recommendations for deregulation activities and streamlining efforts are being evaluated to the extent they can be practicably implemented without increasing risk to the public health or environment.

**Anticipated Costs and Benefits:**

This is a streamlining exercise, therefore overall costs to the regulated

community are expected to decrease. Benefits include reduced regulation, decreased paperwork, less burden, and increased Agency efficiency. No comprehensive analyses have been done to date. When specific regulatory objectives and alternatives are identified, costs and benefits will be evaluated.

**Risks:**

The principal objective of this project is to improve the infrastructure of the pesticide regulation system. Each recommendation for change is assessed for potential impact on public health and environmental protection. In considering modifying existing regulations, any alternatives must be at least as protective as current requirements.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/95	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Tribal, Federal

**Additional Information:**

SAN No. 3755

A number of program activities and regulations are being evaluated for the regulatory reform initiative. As these activities are developed, they will be included in the Regulatory Agenda when appropriate. Current regulatory reform initiatives are identified in the Regulatory Agenda individually.

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**RIN:** 2070-AC97

**EPA**

**105. • STREAMLINING NATIONAL  
POLLUTANT DISCHARGE  
ELIMINATION SYSTEM  
REQUIREMENTS, INCLUDING  
GENERAL PRETREATMENT  
REQUIREMENTS**

**Priority:**

Economically Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will



revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

33 USC 1251/CWA 101; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1317/CWA 307; 33 USC 1328/CWA 318; 33 USC 1342/CWA 402; 33 USC 1345/CWA 405

**CFR Citation:**

40 CFR 122; 40 CFR 403

**Legal Deadline:**

None

**Abstract:**

The Environmental Protection Agency (EPA) is revising regulations, guidance documents, and forms to streamline procedures for compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. The rule and form revisions will eliminate redundant regulations, provide clarification, and remove unnecessary procedures which do not provide any environmental benefit. Revising and reducing burdensome procedures will promote efficiency and simplify the operation of the NPDES programs. Where possible, through the reliance on existing data and collection of data in electronic form, the burden on small businesses and other entities will be reduced.

**Statement of Need:**

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the NPDES Program, including pretreatment, and make the programs more efficient. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included commitments to streamline the NPDES Program.

**Summary of the Legal Basis:**

EPA has no statutory or court obligation to complete these rules.

**Anticipated Costs and Benefits:**

Firm cost-benefit data is not available at this time. While some of the rule revisions will include new requirements which have costs associated with them (e.g., the permit application forms and associated regulation revisions), most of the revisions will lead to cost savings. The proposals under development will

consolidate application forms and clarify/streamline application procedures (e.g., minimize the need for sequential requests for additional information). The revisions are expected to reduce permit backlogs, the cost of duplicative work, and paperwork burdens and costs for State and local governments, businesses, and others that must comply with NPDES regulations.

**Risks:**

For the most part, EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection. While the Industrial, Municipal, and Sludge Permit Application Rules will include new requirements which have costs associated with them, they should make the permit process more efficient and predictable. The revised application requirements should make it easier for the Agency and States to collect the information they need regarding the discharge of toxic contaminants and support the development of permit limits that will protect the quality of our Nation's waters.

**Timetable:**

Action	Date	FR Cite
NPRM NPDES and Sludge Municipal Permit Application Forms and Rules	10/00/95	
NPRM Procedures for Developing and Maintaining Approved POTW Program	12/00/95	
NPRM Round II NPDES Streamlining Rule	02/00/96	
NPRM NPDES Industrial Permit Application Form and Regulations	04/00/96	
NPRM Permit Application for Municipal Separate Storm Sewer Systems	05/00/96	
NPRM Round III NPDES Streamlining Rule	06/00/96	
Final Action Round II NPDES Streamlining Rule	08/00/96	
Final Action Procedures for Developing and Maintaining Approved POTW Program	12/00/96	

Action	Date	FR Cite
NPRM General Pretreatment for Existing and New Sources of Pollution	03/00/97	
Final Action NPDES and Sludge Municipal Permit Application Forms and Rules	06/00/97	
Final Action Permit Application for Municipal Separate Storm Sewer Systems	06/00/97	
Final Action Round III NPDES Streamlining Rule	12/00/97	
Final Action NPDES Industrial Permit Application Form and Regulations	01/00/98	
Final Action General Pretreatment for Existing and New Sources of Pollution	03/00/98	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

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**EPA**

**106. • STREAMLINING REVISIONS TO THE NATIONAL PRIMARY DRINKING WATER REGULATIONS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 300/SDWA 1412

**CFR Citation:**

40 CFR 141

**Legal Deadline:**

None

**Abstract:**

As part of the Environmental Protection Agency's (EPA's) efforts to realign regulatory development priorities for the Drinking Water Program to maximize risk reduction and to focus and improve implementation of the existing regulatory program, EPA is initiating work on several streamlining rules. First, EPA is reorganizing/reformatting Part 141 to make it easier for public water systems to understand and comply with and for States, local, and tribal governments to implement. EPA is also undertaking a comprehensive review of numerous monitoring and reporting requirements to identify opportunities to reduce the monitoring and reporting burden associated with both regulated and unregulated contaminants. Along with the comprehensive review of monitoring requirements, EPA is reexamining existing requirements that trigger increased monitoring of individual pollutants to try to raise the trigger and, thereby, reduce particular increased monitoring requirements. Finally, EPA is reviewing and streamlining existing public notification (PN) requirements which apply to systems which do not comply with drinking water standards. EPA plans to streamline PN requirements to allow States increased flexibility to design programs which will ensure notice to the public in a timely and effective manner.

**Statement of Need:**

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the National Primary Drinking Water Program and make the regulations easier to read and understand. EPA's June 1 "Report to the President: Eliminating and Streamlining Regulations" included commitments to streamline the Drinking Water Program.

**Summary of the Legal Basis:**

EPA has no Statutory or Court obligation to complete these rules.

**Anticipated Costs and Benefits:**

Firm cost-benefit data is not available at this time.

**Risks:**

EPA's streamlining efforts will address opportunities to reduce program

implementation costs without jeopardizing public health protection.

**Timetable:**

Action	Date	FR Cite
NPRM Reformatting of Existing Drinking Water Regulations	03/00/96	
NPRM Requirements for Triggering Increased Drinking Water Monitoring	03/00/96	
NPRM Streamlining Drinking Water Monitoring Requirements	12/00/96	
NPRM Streamlining Drinking Water Public Notification Requirements	12/00/96	
Final Action Requirements for Triggering Increased Drinking Water Monitoring	01/00/97	
Final Action Reformatting of Existing Drinking Water Regulations	06/00/97	
Final Action Streamlining Drinking Water Monitoring Requirements	12/00/98	
Final Action Streamlining Drinking Water Public Notification Requirements	12/00/98	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

Revision of Current Requirements for Triggering Increased Drinking Water Monitoring (SAN 3565)

Reformatting of Existing Drinking Water Regulations (SAN 3563)

Comprehensive Review of Drinking Water Monitoring Requirements (SAN)

Revisions to Drinking Water Public Notification Requirements (SAN)

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RIN: 2040-AC66

**EPA****107. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL****Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

**CFR Citation:**

40 CFR 261; 40 CFR 266

**Legal Deadline:**

None

**Abstract:**

The benefits include lessening the burden on the regulated community by clarifying requirements for all hazardous waste recyclers, and reducing those requirements for many recyclers. Costs will be determined as the Agency decides which recycling facilities will be under Resource Conservation and Recovery Act (RCRA) jurisdiction.

**Statement of Need:**

Revisions are needed to improve EPA's regulation hazardous waste recycling by: (a) eliminating disincentives for the safe recycling of hazardous waste; (b) concentrating on higher-risk materials that pose greater hazards; and (c) developing simpler definitions and regulations.

**Summary of the Legal Basis:**

This action is not mandated by statute or court order. However, the Agency intends to respond to several court decisions by clarifying which recyclable materials are excluded from RCRA hazardous waste management requirements.

**Alternatives:**

Alternatives to be considered include not modifying the current regulations. Other alternatives include different mechanisms for determining which recyclable materials are subject to RCRA, such as the degree to which the recycling process resembles ongoing manufacturing and whether the materials are transferred off-site. For recyclable materials remaining under

RCRA, we are examining alternative management requirements and approval systems for different types of recyclers.

#### Risks:

This action aims at more effective risk management by streamlining and tailoring management requirements for low-risk recyclers (including eliminating requirements that are redundant with other statutes). This will allow regulatory resources to be concentrated on those recyclers who engage in activities posing a greater threat to human health and the environment.

#### Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

State, Tribal, Federal

#### Additional Information:

SAN No. 2872.

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#### EPA

### 108. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

42 USC 6905, 6912(a), 6921, 6922, and 6926

#### CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

#### Legal Deadline:

NPRM, Judicial, November 13, 1995.  
Final, Judicial, December 15, 1996.

#### Abstract:

Under the current Resource Conservation and Recovery Act (RCRA) "mixture" and "derived from" rules, some low-risk wastes are currently regulated by the Environmental Protection Agency's (EPA's) hazardous waste regulations. To address this problem, this deregulatory action will make modifications to the "mixture" and "derived from" rules, and establish new criteria that would exempt certain low-risk wastes from the hazardous waste regulations. In developing this action, EPA is considering the views of all members of a Federal Advisory Committee Act (FACA) committee. This action will be implemented by EPA and authorized States.

#### Statement of Need:

EPA is proposing to amend its regulations under RCRA for hazardous waste identification. The amendment would establish exemption criteria for low-risk listed hazardous wastes, waste mixtures, and derivatives.

Under the amendment, low-risk listed hazardous wastes, waste mixtures, and derivatives meeting the exemption criteria would no longer be subject to hazardous waste management requirements under subtitle C of RCRA.

The provisions of this proposal will reflect a balancing of the Agency's informational needs for oversight and enforcement with the practical resource considerations of the generator. This proposal would reduce the demand on scarce subtitle C landfill capacity and would not increase risk to humans or the environment, because the exempt waste would be low-risk and not warrant management under subtitle C. This proposal will also promote pollution prevention, waste minimization, and development of innovative waste treatment technology.

This notice will also contain the Agency's response to a petition for rulemaking submitted by the Chemical Manufacturers Association.

#### Alternatives:

A variety of alternatives for establishing the exemption criteria and the implementation requirements were identified by a FACA committee co-chaired by EPA and the States. EPA is forging a strong partnership with the States in the interest of our co-regulator, co-implementor roles. The proposal will include a basic exit option and request comment on contingent management alternatives.

#### Anticipated Costs and Benefits:

Draft estimates are that 60-80 million tons of waste water, and 0.25 to 0.28 million tons of nonwastewater could exit subtitle C annually. Cost savings to industry could range from \$70-\$80 million annually.

#### Risks:

This proposal would maintain current levels of risk protection.

#### Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	11/00/95	
Final Action	12/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

State, Federal

#### Additional Information:

SAN No. 3328.

Reinventing Government: The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 Report, "Reinventing Environmental Regulations."

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#### EPA

### 109. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

#### Priority:

Economically Significant

#### Legal Authority:

42 USC /RCRA 3004(a)(q); RCRA 3005(a), CAAA section 112

#### CFR Citation:

40 CFR 60; 40 CFR 61; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

#### Legal Deadline:

None

EPA has signed a settlement agreement to promulgate revised rules for industrial furnaces and incinerators by December 1996 and boilers by December 1999.

**Abstract:**

The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces. These standards would be applicable during the construction and operation of these combustion facilities.

**Statement of Need:**

Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that there are no emission standards for chlorinated dioxins and furans and that there have been advances both in risk assessment and control technologies since promulgation of the current standards.

Consequently, the Agency plans to establish new emissions standards for HWCs under joint CAA and RCRA. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry.

**Alternatives:**

Under provisions of the CAA, the Agency plans to consider the cost-effectiveness of emission limits more stringent than the minimum limits mandated by the statute. Further, the Agency plans to evaluate approaches to reduce emissions of hazardous air pollutants by improving good operating practices (e.g., controlling the way in which problematic materials such as toxic metals are introduced into the combustor).

**Anticipated Costs and Benefits:**

The cost and benefit analyses are currently undergoing internal Agency review.

**Risks:**

The risk analyses for this rulemaking are undergoing internal Agency review.

**Timetable:**

Action	Date	FR Cite
NPRM Industrial Furnaces and Incinerators	11/00/95	
Final Rule	12/00/96	
NPRM - Boilers	09/00/98	
Final Rule	12/00/99	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Additional Information:**

SAN No. 3333.

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**RIN:** 2050-AE01

**EPA**

**110. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES; HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): CONTAMINATED MEDIA**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6912(a)/RCRA 3001; 42 USC 6905; 42 USC 6921; 42 USC 6922; 42 USC 6926

**CFR Citation:**

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

**Legal Deadline:**

None

**Abstract:**

The goal of this regulation is to establish a new regulatory framework under the Resource Conservation and Recovery Act (RCRA) for the management of contaminated media that are generated from remediating hazardous waste sites. The new regulation will reform the current standards by creating more flexibility

for Agency decisionmakers in setting cleanup requirements, and by better aligning the RCRA regulations with the actual risks posed by managing contaminated media. The rule will exempt certain lower risk contaminated media from the traditional RCRA regulations and will set treatment standards for higher risk media that reflect the inherent differences between contaminated media (e.g., soils, groundwater) and newly generated hazardous wastes. The regulations will also simplify and streamline RCRA permit requirements for cleanups that involve managing hazardous materials.

**Statement of Need:**

Since 1980, the Environmental Protection Agency (EPA) has promulgated comprehensive regulations under subtitle C of RCRA governing the treatment, storage, disposal, and transportation of hazardous wastes. These regulations have been designed primarily to discourage hazardous waste generation, and for those wastes generated, to prevent future environmental contamination by ensuring safe management and disposal. In contrast, the primary objective of the cleanup program is to achieve environmental improvement as quickly and effectively as possible.

In 1993, EPA, States, and representatives from industry, environmental groups, and the hazardous waste treatment industry (constituting a Federal Advisory Committee (FACA)) reached a tentative agreement on a "harmonized approach" to address this issue. This approach distinguishes between "higher" and "lower" level (bright line) contaminated media based on assessment of potential human health and environmental risks. The bright line would be set at a relatively high-risk level to allow States and EPA to identify hot spots that would be subject to subtitle C requirements (land-disposal regulations and MTR). Media above bright-line concentrations would be subject to specific national treatment requirements; media below the bright line would be exempt from subtitle C if subject to enforceable site-specific management by the overseeing agency.

**Alternatives:**

Alternative regulatory approaches for this rule will be proposed and analyzed.

**Anticipated Costs and Benefits:**

Analyses of costs and benefits will be conducted as part of the economic

analysis for this rule required under Executive Order 12866.

#### Risks:

One of the primary objectives of this rule is to establish requirements for management of contaminated media that more accurately reflect the risks posed by such wastes. Thus, the rule is expected to result in cleanups that achieve the Agency's risk reduction objectives in a more efficient and expeditious manner. More quantitative analysis of the risks associated with this rule will be included in the economic analysis.

#### Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawal	10/30/92	57 FR 49280
Reproposal	12/00/95	
Final Action	03/00/97	

#### Small Entities Affected:

Businesses

#### Government Levels Affected:

State, Federal

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 2982.

Reinventing Government: The rule was highlighted as one of the Agency's top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The HWIR Media rule is an important component of EPA's regulatory efforts to make the RCRA hazardous waste program more risk based and to expedite cleanups at RCRA, UST, and CERCLA sites.

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#### EPA

#### 111. NEW SOURCE REVIEW (NSR) REFORM

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

Clean Air Act as amended in 1990, title I

#### CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 51, app S; 40 CFR 52.21; 40 CFR 52.24

#### Legal Deadline:

None

#### Abstract:

The purpose of this action is to revise the Clean Air Act new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking seeks to deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action will more clearly define the roles and requirements of sources, permitting authorities and Federal land managers in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources

(40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

#### Statement of Need:

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industries' concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In August 1992 and March 1993, public workshops were held to obtain ideas and comments and discuss options for reforming NSR, but not to attempt to reach consensus with the group. In July 1993, the New Source Review (NSR) Reform Subcommittee was formed under the auspices of the Clean Air Act Advisory Committee. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules.

The Subcommittee is composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (Federal Land Managers, National Park Service and Forest Service), Department of Energy, and the Office of Management and Budget). Six subgroups were formed to address Class I area and control technology issues identified by the Subcommittee. Another two subgroups were formed at the November 1993 meeting, one to address NSR applicability issues and the other to address the impact of existing sources on Class I areas.

#### Summary of the Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address two outstanding settlement agreements: CMA Exhibit B and Top-down BACT. The pending settlement

on WEPCO may impose a judicial deadline on the rulemaking.

#### Alternatives:

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus will be to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort.

#### Anticipated Costs and Benefits:

From a cost perspective, this rulemaking represents a decrease in costs to industry of at least \$6 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately \$1.4 million per year. The Federal Government should realize a savings of approximately \$116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

#### Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

#### Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	09/00/96	

#### Small Entities Affected:

None

#### Government Levels Affected:

State, Local, Federal

#### Additional Information:

SAN No. 3259.

#### Agency Contact:

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Air and Radiation  
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RIN: 2060-AE11

#### EPA

#### 112. NAAQS: OZONE (REVIEW)

##### Priority:

Economically Significant

##### Legal Authority:

42 USC 7408 section 108 Clean Air Act;  
42 USC 7409 Section 109 Clean Air Act

##### CFR Citation:

40 CFR 50.9

##### Legal Deadline:

Final, Statutory, December 31, 1980.  
Review at 5-year intervals thereafter.

##### Abstract:

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for ozone to incorporate new scientific and technical information. Based on the revised criteria, the EPA will determine whether revisions to the standards are appropriate.

##### Statement of Need:

In March 1993, the EPA concluded that revision of the NAAQS was inappropriate, based on the existing air quality criteria for ozone, but decided to expedite the next review of the ozone criteria and NAAQS in light of potentially significant new information. On February 3, 1994, EPA announced an accelerated schedule for completing the new review. In litigation challenging the March 1993 decision, the EPA subsequently sought and received a voluntary remand of the decision so that it could be reconsidered in light of the new information. The EPA intends to complete the remand proceedings on the schedule announced in February. Consistent with that schedule, a draft Criteria Document was sent to the Clean Air Scientific Advisory Committee (CASAC) and made available for public review during February and March of 1994. The CASAC met in July 1994 to review the criteria document and provided oral and written comments, which are being considered by EPA in revising the draft

document. Subsequent CASAC meetings were held to review the revised draft criteria document and drafts of the staff paper in March and September 1995.

#### Alternatives:

Section 109 of the Clean Air Act requires periodic review of the NAAQS. This review is being undertaken to satisfy the statutory requirement.

#### Anticipated Costs and Benefits:

The anticipated costs and benefits resulting from this rulemaking will be part of the Agency's regulatory impact analysis of this rule. The Agency has just begun this analysis; therefore, the anticipated costs and benefits are not available at this time.

#### Risks:

As part of this review, EPA is preparing exposure/risk analyses. These analyses are undergoing review. Therefore the results are not available at this time.

#### Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

#### Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

#### Government Levels Affected:

State, Local, Federal

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3353.

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RIN: 2060-AE57

#### EPA

#### 113. NAAQS: PARTICULATE MATTER (REVIEW)

##### Priority:

Economically Significant

##### Legal Authority:

42 USC 7408 to 7409

##### CFR Citation:

40 CFR 50.6

**Legal Deadline:**

NPRM, Judicial, June 30, 1996. Final, Judicial, January 31, 1997.

**Abstract:**

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for particulate matter to incorporate new scientific and technical information that has become available since the last review. Based on the revised criteria, EPA will determine whether revisions to the standards are appropriate.

**Statement of Need:**

The EPA last completed a review of the particulate matter NAAQS in July 1987. Since that time a growing body of scientific information has associated particle pollution with excess-mortality and morbidity effects at levels below the existing 24-hour primary standard. Many in the scientific community believe that these effects are most likely associated with fine particles. In light of this, EPA is in the process of updating the air quality criteria for particulate matter. An external review draft of revised criteria document was reviewed by the Clean Air Scientific Advisory Committee (CASAC) in August 1995. The CASAC will meet to review the associated staff paper in November/December 1995.

**Alternatives:**

Section 109 of the Clean Air Act (42 USC 7409) requires periodic review of the NAAQS. This review is being undertaken to satisfy the satisfactory requirement.

**Anticipated Costs and Benefits:**

The anticipated costs and benefits resulting from this rulemaking will be part of the Agency's regulatory impact analysis of this rule. The Agency has just begun this analysis; therefore, the anticipated costs and benefits are not available at this time.

**Risks:**

Particle pollution has been associated with excess mortality and with respiratory illness at levels below existing 24-hour standards. As part of this review, EPA will examine the risk associated with particle pollution.

**Timetable:**

Action	Date	FR Cite
NPRM	06/30/96	
Final Action	01/31/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Sectors Affected:**

10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying of Nonmetallic Minerals, Except Fuels; 33 Primary Metal Industries; 491 Electric Services

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3448.

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**RIN:** 2060-AE66

**EPA**

**114. OPERATING PERMITS:  
REVISIONS (PART 70)**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 7661 et seq

**CFR Citation:**

40 CFR 70; 40 CFR 71; 40 CFR 51

**Legal Deadline:**

None

**Abstract:**

In response to litigation on the part 70 regulations, to several problems identified through implementation of part 70, and to comments provided in response to notices of proposed rulemaking, parts 51, 70, and 71 are being revised. The changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities or the Environmental Protection Agency (EPA) under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements

for certain smaller research and development facilities; and changes in procedural requirements in order to clarify the flexibility States possess in processing minor new source review actions under title I of the Act.

**Statement of Need:**

These revised rules will establish a simpler, more flexible system for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report "Reinventing Environmental Regulation." That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

**Alternatives:**

The Clean Air Act requires that EPA develop regulations which set minimum standards for State operating-permit programs. The Clean Air Act also requires that EPA promulgate and administer a Federal operating-permits program for States that have not obtained EPA approval by November 15, 1995. In response to concerns expressed in response to comments on the initial notice of proposed rulemaking, the EPA sought further input from representatives from State and local permitting authorities, industry and environmental groups to learn more directly of their implementation concerns. This action incorporates many of those recommendations into a final rule.

**Anticipated Costs and Benefits:**

Costs were estimated in terms of the administrative burden on permitting authorities, EPA, and permitted sources. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process. The administrative costs of implementing these revisions to parts 70 and 71 is estimated to be approximately \$33 million. In comparison, implementing the current part 70 permit revision system is estimated to be approximately \$118 million in administrative burden. The actual impact of implementing the revised regulations represents a significant reduction in costs over implementing the current regulations.

**Risks:**

All major sources of air pollution are required to have a permit to operate by the Clean Air Act and are subject to the emission requirements of the State Implementation Plans. No adverse effect on the public health or ecosystems should result from this action.

**Timetable:**

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal	04/27/95	60 FR 20804
NPRM	10/00/95	
FINAL	03/00/96	

**Small Entities Affected:**

Governmental Jurisdictions

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3412.

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RIN: 2060-AF70

**EPA****115. • TRANSPORTATION CONFORMITY FLEXIBILITY AND STREAMLINING****Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 7521(a)/CAA 176(c)

**CFR Citation:**

40 CFR 51; 40 CFR 93

**Legal Deadline:**

None

**Abstract:**

The Clean Air Act Amendments (CAAA) of 1990 recognized that transportation planning and air quality planning must be coordinated towards achieving the National Ambient Air Quality Standards (NAAQS). The transportation conformity rule was promulgated in November of 1993, in response to CAAA concerns. Conformity ensures that transportation planning does not (a) produce new air quality violations, (b) worsen existing violations, and (c) delay timely attainment of the NAAQS. This rulemaking is the third in a series of amendments to the original transportation conformity rule. This rulemaking will streamline the original rule to simplify the conformity process in response to conformity stakeholder concerns. Flexibility will be added for rural nonattainment areas. Difficulties associated with the build/no-build test and adding transportation projects to plans will be resolved, and non-Federal projects will have additional flexibility through these amendments.

**Statement of Need:**

This rulemaking will streamline the original transportation conformity rule in response to stakeholder concerns. This rulemaking will continue to ensure attainment and maintenance of the CAAA's air quality standards in order to protect public and environmental health.

**Alternatives:**

This rulemaking amends the original transportation conformity rule to simplify the conformity process for State and local transportation and air quality agencies. Conformity stakeholders have assisted EPA and the Department of Transportation (DOT) in formulating a new approach to reaching attainment through the conformity process. Several alternative approaches to conformity revisions have been considered by involved stakeholders. Since this rulemaking is a direct result of the stakeholder process, opting for the alternative (i.e., maintaining the original transportation conformity rule as currently written) would not address stakeholder concerns in a satisfactory manner.

**Anticipated Costs and Benefits:**

There are no significant direct monetary costs associated with this rulemaking as stipulated in Executive Order 12866. Benefits associated with this rulemaking include all benefits connected to attaining the NAAQS. In addition, by involving transportation

and air quality agencies during initial planning processes, long-term planning will become more efficient by ensuring that transportation investments do not interfere with clean air goals.

**Risks:**

This rulemaking addresses risks which are associated with not attaining the NAAQS.

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/95	

**Small Entities Affected:**

Governmental Jurisdictions

**Government Levels Affected:**

State, Local, Tribal, Federal

**Additional Information:**

SAN No. 3740.

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RIN: 2060-AG16

**EPA****116. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER****Priority:**

Economically Significant

**Legal Authority:**

42 USC 7412; 42 USC 7414; 42 USC 7601; Clean Air Act Amendments of 1990 section 112, 114, and 301; 33 USC 1311, 1314, 1316, 1317, 1318, and 1361; Clean Water Act section 301, 304, 306, 307, 308, and 501

**CFR Citation:**

40 CFR 63; 40 CFR 430

**Legal Deadline:**

Final, Statutory, November 15, 1997.

**Abstract:**

The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for



certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. For the pulp and paper industry, EPA is developing an integrated regulation that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

#### Statement of Need:

This action will limit surface water discharges of toxic, conventional, and nonconventional pollutants and emissions of hazardous air pollutants (HAPs) from pulp and paper mills. The NESHAP will limit the release of HAPs such as chloroform, formaldehyde, acetaldehyde, and methanol. The effluent guidelines will limit the discharge of dioxin, furan, and other toxic and conventional pollutants to rivers and other surface waters.

#### Alternatives:

Both the CAA and the CWA specify that these regulations be established on a technology basis. The CAA specifies that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The CWA specifies that effluent limitations guidelines and standards be based on specific technology levels, such as the best available technology economically achievable. For the integration of air and water standards, EPA developed regulatory alternatives from combinations of process changes and pollution control technologies. The Agency considered the combined costs and impacts of these alternatives while remaining responsive to the statutory requirements under both laws.

#### Anticipated Costs and Benefits:

The proposed integrated air and water rules comprise effluent guidelines for all pulp and paper mills and MACT standards for the noncombustion sources at those mills. The Agency plans to propose MACT standards for the combustion sources in early 1996 and include them in the integrated air and water rules to be promulgated. For the rulemaking components that have been proposed, the Agency estimated total annualized costs of \$600 million

(1992 dollars). The Agency has received extensive public comments on the cost estimates; revisions are likely, but the magnitude of those revisions has not been determined.

The types of benefits associated with the proposed integrated rule include improvements to air and water quality and reduced human health risks. The estimated reductions in HAP emissions exceed 120,000 tons per year. An estimated reduction in volatile organic compound emissions of 700,000 tons per year and a reduction in total reduced sulfur emissions of 300,000 tons per year are also projected to occur as a result of the proposed integrated rule. Projected reductions in specific toxic pollutant effluent discharges are approximately 2,800 tons per year; conventional pollutant reductions of over 200,000 tons per year are projected. Some categories of the benefits can be expressed in monetary terms; they are in the range of \$160 million to \$980 million.

#### Risks:

Two types of pollutants found in pulp and paper wastestreams, dioxin and furan, are of particular concern due to their carcinogenic risk and their toxicity to aquatic life. Reducing the discharge and emission of these and other toxic pollutants reduces the exposure risks to human health and the environment.

#### Timetable:

##### For All Sources

Final Action 00/00/00

##### NESHAP for Combustion Sources and Effluent Guidelines - Phase II

NPRM 04/00/96

##### NESHAP for Nonchemical and Other Pulp and Paper Mills

NPRM 11/15/96

##### NESHAP for Noncombustion and Combustions Sources and Guidelines

Final 00/00/00

##### NESHAP for Noncombustion Sources and Effluent Guidelines -Phase 1

NPRM 12/17/93 (58 FR 66078)

#### Small Entities Affected:

Businesses

#### Government Levels Affected:

State, Local, Federal

#### Additional Information:

SAN No. 3105 (was 2914) for NESHAP and SAN No. 2712 for Effluent Guidelines

ADDITIONAL AGENCY CONTACT: Jeff Telander (Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (Nonchemical and other Pulp and Paper Mills)

ADDITIONAL AGENCY CONTACT:  
Debra Nicoll (Effluent Guidelines)  
Office of Water, 4303, Washington, DC  
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See also RIN 2040-AB53.

#### Agency Contact:

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RIN: 2060-AD03

#### EPA

### 117. NATIONAL 49-STATE LOW-EMISSION VEHICLES PROGRAM

#### Priority:

Economically Significant

#### Legal Authority:

Clean Air Act secs 202 and 301(a)

#### CFR Citation:

None

#### Legal Deadline:

None

#### Abstract:

This rulemaking is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program would apply only to those manufacturers that chose to opt into the program. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's (OTC's) low-emission vehicle (LEV) program.

#### Statement of Need:

If agreement is reached between the OTC states and the auto makers on a voluntary 49-State LEV program, this rulemaking will establish the regulations for the LEV program. Under these regulations, auto makers would be able to volunteer to comply with more stringent tailpipe standards for cars and trucks (light-duty). Once an auto maker opted into the program, EPA would enforce the standards in the same manner as any other federal motor vehicle pollution control requirement. EPA is proposing that this program would relieve the 13 states in the Northeastern part of the country (OTR) of the December, 1994, regulatory obligation to adopt their own

motor vehicle programs. This rulemaking also harmonizes Federal and California motor vehicle standards and test procedures to enable auto makers to design and test vehicles to one set of standards nationwide.

#### Alternatives:

Under the CAA, EPA is prohibited from adopting more stringent auto tailpipe standards prior to fiscal year 2004. The OTC petitioned the Environmental Protection Agency (EPA) in 1994 and was granted approval to adopt the California Low-Emission Vehicle Program in the OTR. This rulemaking would establish a voluntary LEV program in 49 states.

#### Anticipated Costs and Benefits:

The annualized costs of the OTC LEV Program will be roughly \$400 million. The National LEV program created in this rulemaking is expected to have an annual cost of \$1.1 billion. The OTC program would only apply to 2 million vehicles sold in the OTR. The National LEV program would apply to all new vehicles sold in 49 States comprising a vehicle fleet of 12.5 million vehicles sold annually. On a per car basis, EPA expects vehicle price to increase \$100. The National LEV program will provide air pollution reductions throughout the country. There are currently 38 ozone nonattainment areas outside the OTR and CA with a combined population of approximately 45 million that will benefit from this voluntary national program.

#### Risks:

Motor vehicles are a significant cause of smog because of emissions of volatile organic compounds (VOC) and nitrogen oxide (NOx). EPA has projected that, without the California LEV in the OTR, highway vehicles will account for roughly 38 percent of NOx and 22 percent of VOC emissions in 2005. EPA currently estimates that VOC emissions should be reduced by roughly 95 tons per day and NOx emissions by approximately 195 tons per day as a result of the National LEV program.

#### Timetable:

Action	Date	FR Cite
NPRM	10/00/95	
Final Action	01/00/96	

#### Small Entities Affected:

None

#### Government Levels Affected:

State, Federal

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3646.

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RIN: 2060-AF75

#### EPA

### 118. CONTROL OF NITROGEN OXIDE AND PARTICULATE EMISSIONS FROM HEAVY-DUTY ENGINES

#### Priority:

Other Significant

#### Legal Authority:

Clean Air Act secs 202(a), 211(c), 213(a), 301(a)

#### CFR Citation:

None

#### Legal Deadline:

None

#### Abstract:

The primary focus of this action will be on the potential for reduced nitrogen oxide and particulate emissions from mobile sources, particularly diesel engines and fuels. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and "secondary" particulates formed in the atmosphere, have been associated with increased death and illness rates as well as impaired visibility. In addition, this action also will investigate the potential for reducing ozone hydrocarbon emissions from mobile sources, particularly from diesel engines and fuels.

The advance notice of proposed rulemaking is intended to notify the public of the Agency's intent to investigate the feasibility of reducing emissions of nitrogen oxides and particulates from mobile sources. It is also intended to solicit involvement and input from a broad cross-section of the public, including potentially affected industries, States, regional air management organizations, public health and environmental protection interest groups, and the general public.

#### Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions

of Americans and a large burden to the U.S. economy. Many ozone nonattainment areas face great difficulties in reaching and maintaining attainment of the ozone health-based air quality standards in the years ahead. Recognizing this challenge, States, local governments, and others have called on the Environmental Protection Agency (EPA) to promulgate additional national measures to reduce nitrogen oxide (NOx) and hydrocarbons in order to protect the public from the serious health effects of ozone pollution. The control of particulate matter emissions from heavy-duty engines is also a priority for these stakeholders.

#### Alternatives:

EPA will consider alternatives for this rule as part of the response to the advance notice of proposed rulemaking (ANPRM).

#### Risks:

Oxides of nitrogen comprise a family of highly reactive gaseous compounds that contribute to air pollution in both urban and rural environments. NOx is directly harmful to human health and the environment, contributes to particulate pollution, and plays a critical role in the formation of atmospheric ozone. Based on studies of human populations exposed to high concentrations of particles and laboratory studies of animals and humans, there are major human health concerns associated with PM. These include deleterious effects on breathing and respiratory systems, aggravation of existing respiratory and cardiovascular disease, alterations in the body's defense systems against foreign materials, damage to lung tissue, carcinogenesis, and premature death.

#### Timetable:

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM	02/00/96	
Final Action	11/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3645.

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**RIN:** 2060-AF76

**EPA**

**119. NONROAD SPARK-IGNITION  
ENGINES AT OR BELOW 19  
KILOWATTS (25  
HORSEPOWER)(PHASE 2)**

**Priority:**

Other Significant

**Legal Authority:**

42 USC 7547/CAA 213

**CFR Citation:**

40 CFR 90

**Legal Deadline:**

NPRM, Judicial, April 30, 1996. Final,  
Statutory, November 15, 1992. Final,  
Judicial, April 30, 1997.

**Abstract:**

This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act as Amended. The Environmental Protection Agency (EPA) is developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

**Statement of Need:**

Nonroad engines contribute significantly to total ozone precursor and CO emissions in areas that have failed to attain the National ambient air quality standards (NAAQS) for ozone and CO. Requirements for emissions reductions will help many areas

achieve the NAAQS. The second phase will include additional controls not achievable in the timeframe of the first phase, which are necessary for continued attainment of NAAQS.

**Alternatives:**

Regulation of this category of engines was split into two phases on the recommendation of the regulated industry, in order to obtain some early reductions quickly while providing sufficient lead-time to develop and implement an appropriate second phase. The regulatory negotiation committee was convened for the second phase to ensure that all possible options for achieving appropriate emissions reductions from this sector were considered.

**Anticipated Costs and Benefits:**

The regulatory negotiation committee is developing the rule, including setting of emissions standards levels, based on a cost/benefit analysis that considers cost per ton of emissions reduced as well as cost per engine. Until that process is complete, the specific costs and benefits are unknown. The benefits of phase 1 were a 32 percent reduction in hydrocarbons and a 7 percent reduction in carbon monoxide from these engines, at a cost of \$266 per ton of hydrocarbons reduced.

**Risks:**

Over 89 million small engines contribute to unhealthy ozone and carbon monoxide levels in nearly 100 cities across the country. An estimated 6.8 million tons of air pollution are generated from lawn and garden equipment each year. Carbon monoxide is an odorless, colorless poisonous gas. Hydrocarbons and oxides of nitrogen contribute to the formation of ground-level ozone, which is a noxious pollutant that impairs lung functioning and is a key ingredient in smog.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	04/00/97	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3361.

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**RIN:** 2060-AE29

**EPA****FINAL RULE STAGE**

**120. • PESTICIDES; SELF-  
CERTIFICATION**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

7 USC 136 to 136y

**CFR Citation:**

40 CFR 152

**Legal Deadline:**

None

**Abstract:**

The Environmental Protection Agency (EPA) is evaluating self-certification as a possible approach to reinventing the registration process for pesticides. The goal of this effort is to simplify, speed up, and increase the efficiency of the registration process while maintaining protection to human health and the environment.

**Statement of Need:**

EPA registers pesticides for sale and use in the United States under the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA has issued rules, notices, and guidance which specify how applicants may obtain approval for registration of pesticide products.

Against a backdrop of declining resources and a continuous workload of pesticide applications, EPA is examining many possible ways of reinventing the registration process to handle applications faster, more efficiently, and with fewer resources. One of these approaches is "self-

certification," a concept in which a registrant may certify that a registration application (or part of it) complies with Agency requirements and may then obtain EPA approval for the registration after an abbreviated review or no review at all. EPA has several projects that are exploring the possible use of self-certification in different ways.

First, EPA has reinvented the process by which registrants may accomplish amendment of products by notification or nonnotification. The revised process allows a registrant to certify that an application for amendment meets EPA's criteria as a low-risk amendment. This revised process is described in PR Notice 95-2 (May 31, 1995). To formally implement this type of self-certification, EPA is revising existing rules (40 CFR 152.44 and 152.46) on notifications and nonnotifications.

Second, self-certification of acute toxicity and product chemistry data is being considered as a means of reducing the number of studies reviewed by EPA in connection with registration applications. While being done as two separate projects (acute toxicity and product chemistry), these efforts are being closely coordinated to assure consistency. One or more PR Notices will be drafted and made available for public comment before any final decisions are made in this area.

Third, possible options for self-certification of new products similar or identical to those already registered are being developed and evaluated. A draft issue paper will be made available for public comment before any final decisions are made about this kind of self-certification.

#### Alternatives:

Various alternatives to self-certification are being considered by EPA for reinventing or improving the registration process, including, but not limited to, sharing acute toxicity data reviews with the California Department of Pesticide Regulation, issuing guidance for acceptable acute toxicity data, exempting certain active ingredients from registration, developing computer software to standardize precautionary labeling, publishing a manual describing all labeling requirements, automating certain documents, piloting electronic labeling, making labeling policy documents publicly available, and developing internal guidance on how to process "fast track" registrations.

#### Anticipated Costs and Benefits:

EPA does not intend to perform cost analyses on self-certification per se, but will qualitatively evaluate the potential costs and benefits of different kinds of self-certification.

#### Risks:

EPA will determine whether self-certification will help or hinder protection of human health and the environment. EPA will not adopt any self-certification measure which does the latter.

#### Timetable:

Action	Date	FR Cite
Final Notification Rule	10/00/95	
Draft PR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	12/00/95	
Final FR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	11/00/96	

#### Small Entities Affected:

Businesses

#### Government Levels Affected:

State, Federal

#### Analysis:

Regulatory Flexibility Analysis

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RIN: 2070-AD00

#### EPA

#### 121. • SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

#### Priority:

Economically Significant

#### Legal Authority:

15 USC 2683; PL 102-550

#### CFR Citation:

40 CFR 745

#### Legal Deadline:

Final, Statutory, April 28, 1994. Other, Statutory, October 28, 1994.

Final Statutory, April 28, 1994 (Sections 403, 402, 404) Final Statutory, October 28, 1994 (Sections 406, 1018)

#### Abstract:

The Residential Lead-Based Hazard Reduction Act of 1992 requires EPA to promulgate regulations that establish standards for determining hazards associated with lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA is to (a) identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects (on July 14, 1994, EPA issued guidance on section 403 to provide preliminary information while a proposal is being developed); (b) promulgate regulations (section 402) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (in addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program); (c) promulgate regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work; (d) promulgate, with HUD, regulations (Section 1018) that require the following before the sale or lease of pre-1978 housing: disclosure of lead-based paint hazards, provisions of a lead-paint information brochure to the prospective buyer or renter, and for buyers, and the opportunity to conduct a lead risk assessment or inspection.

#### Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with 1.7 million young children (8.9%) having more than 10 ug/dl of lead in their blood, Center for Disease Control's level of concern. Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. These rules are designed to reduce exposure to that source in a targeted and sensible manner.

#### Alternatives:

Alternatives to each of the mandated activities will be analyzed. However, in many cases (particularly regulations written under Sections 406 and 1018) the statute is very prescriptive. Under

Section 403, the alternatives being considered include: (a) tiered standards; (b) integrated standards vs. independent standards; and (c) the possible acceptance of a usage factor in determining hazards.

#### Anticipated Costs and Benefits:

For rules promulgated under sections 402, 404, 406, and 1018, cost estimates have been provided with the proposed rule, and will be available with the final rule. For Section 403, costs will still need to be estimated in the draft Regulatory Impact Analysis for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify.

#### Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

#### Timetable:

Action	Date	FR Cite
NPRM Section 406	03/02/94	59 FR 11108
NPRM Sections 402 and 404	09/02/94	59 FR 45872
NPRM Section 1018	11/02/94	59 FR 54984
Final Action Section 1018	11/00/95	
Final Action Section 406	12/00/95	
Final Action Sections 402 and 404	12/00/95	
NPRM Section 403	09/00/96	
Final Action Section 403	09/00/97	

#### Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

#### Government Levels Affected:

State, Local, Tribal, Federal

#### Analysis:

Regulatory Flexibility Analysis;  
Regulatory Impact Analysis

#### Additional Information:

Lead Hazard Standards (Section 403) (RIN 2070-AC63)

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (Sections 402 and 404) (RIN: 2070-AC64)

Lead-Based Paint Disclosure Requirements at Renovation of Target Housing (Section 406) (RIN: 2070-AC65)

Lead-Based Paint Hazard Information Requirements at the Transfer of Target

Housing: Joint with HUD (Section 1018) (RIN: 2070-AC75)

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#### EPA

### 122. • POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

15 USC 2605(e)/TSCA 6(e)

#### CFR Citation:

40 CFR 761

#### Legal Deadline:

None

#### Abstract:

This rulemaking will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). A notice of proposed rulemaking was published on December 6, 1994 and covered the manufacture, processing, distribution in commerce (including export), use (including import), disposal, and marking of PCBs.

#### Statement of Need:

This rulemaking is the first comprehensive review of the PCB regulations in the 17-year history of the program. The Agency has become aware of a number of instances where the existing regulations do not allow for activities which do not pose an unreasonable risk of injury to health and the environment or where they require unreasonable, unrealistic, or non-cost-effective solutions to PCB problems.

#### Summary of the Legal Basis:

TSCA section 6(e) bans the manufacture, processing, distribution in

commerce and use (except in a totally enclosed manner) of PCBs. It also directs EPA to establish standards for disposal and marking of PCBs. However, section 6(e) allows the EPA to modify these bans, through rulemaking, where it finds no unreasonable risk of injury to health and the environment.

#### Alternatives:

On December 6, 1994, EPA proposed a number of alternatives to the existing statutory bans in section 6(e). The proposal also included new options and standards for disposal (including remediation) of PCBs.

#### Anticipated Costs and Benefits:

The EPA projects significant cost savings from authorizations for existing uses and the disposal of large-volume wastes such PCB-contaminated environmental media. In addition, the relaxation of certain administrative requirements should increase the speed of remediation of contaminated sites and accelerate the removal from use of PCBs. EPA projects minimal implementation costs and is reviewing comments which highlight areas for additional cost savings over the proposal.

#### Risks:

The EPA estimates that millions of tons of PCB-contaminated environmental media will be remediated under this rule, thus preventing large quantities of this long-lived, bioaccumulating chemical from entering the food chain.

#### Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62788
Final Action	06/00/96	

#### Small Entities Affected:

Businesses

#### Government Levels Affected:

State, Local, Federal

#### Analysis:

Regulatory Flexibility Analysis

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**EPA****123. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE I****Priority:**

Economically Significant

**Legal Authority:**

33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

**CFR Citation:**

40 CFR 438

**Legal Deadline:**

NPRM, Judicial, March 31, 1995. Final, Judicial, September 30, 1996.

Dates contained in Consent Decree (NRDC v. Reilly)

**Abstract:**

The Environmental Protection Agency (EPA) is developing effluent limitation guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. The phase I regulation will cover seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. This regulation is performance-based and does not specify a method of compliance.

**Statement of Need:**

Discharges of wastewater from industrial facilities contain pollutants that may cause deleterious effects on surface waters and adverse impacts on human health and aquatic life. Discharges from metal products and machinery (MP&M) facilities contain priority and nonconventional metals, organics and conventional pollutants. Many of these pollutants are human carcinogens, human systemic toxicants, aquatic life toxicants, or all of the above. MP&M facilities discharge wastewater directly to surface waters of the United States or indirectly to surface waters via sewer systems and publicly owned treatment works (POTWs) and contribute to the pollution of surface waters and POTW sludges.

**Summary of the Legal Basis:**

The Clean Water Act requires the Environmental Protection Agency (EPA) to establish national technology-based

standards to control or eliminate the discharge of pollutants into surface water and to POTWs. This proposed regulation is required under a 1992 consent decree with the Natural Resources Defense Council and must be developed according to the schedule in that decree.

**Alternatives:**

EPA's proposed rule described three major treatment alternatives the Agency had considered in developing its recommended approach. The three alternatives included: (a) end-of-pipe treatment controls, (b) end-of-pipe controls plus in-process controls, and (c) end-of-pipe treatment (e.g., reverse osmosis, ion exchange). The Agency proposed the second alternative with an exemption for low-flow indirect discharges of process wastewater (i.e., those discharging less than one million gallons per year to publicly owned treatment works) as its recommended approach.

**Anticipated Costs and Benefits:**

At the time of proposal, the MP&M Phase I Guidelines were estimated to impose a total capital cost for direct and indirect dischargers of \$414 million and an estimated annualized cost of \$161 million. Total monetized benefits were estimated to range from \$70 million to \$207 million (in 1994 dollars). The proposed MP&M phase I guidelines were estimated to result in a reduction of almost a million pounds of toxic pollutants discharged by the industry each year, thereby reducing violations of water quality standards (which were bodies across the country). The proposed limits were also estimated to reduce the metals content of municipal sludge, thereby allowing approximately 184 additional POTWs to make beneficial use of 439,000 dry metric tons of sewage sludge annually by land applying the sludge rather than incinerating or landfilling it. The expected cost savings for sewage sludge disposal is estimated to range from \$39 million to \$86 million (in 1994 dollars). Final cost and benefits will be determined once EPA completes its review of the public comments on the proposed rule and makes decisions on the final rule.

**Risks:**

EPA estimates that the proposed limitations would eliminate 2.7 cancer cases per year (from a baseline of about 11.1 cases estimated at the current discharge level); lower risk indicator for systemic, noncancer risks of illness;

and lessen excursions of health-based water quality toxic effect levels.

**Timetable:**

Action	Date	FR Cite
NPRM	05/30/95	60 FR 28210
Final Action	09/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Local, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 2806.

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**EPA****124. LAND DISPOSAL RESTRICTIONS—PHASE IV: TREATMENT STANDARDS FOR CERTAIN MINERAL PROCESSING WASTES; TC METALS; NEWLY LISTED WASTES FROM WOOD PRESERVING AND DYES AND PIGMENTS****Priority:**

Economically Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6905, 6912(a), 6921, 6924

**CFR Citation:**

40 CFR 268

**Legal Deadline:**

Final, Judicial, June 1996.

**Abstract:**

The Hazardous and Solid Waste Amendments of 1984 require the Environmental Protection Agency (EPA) to promulgate regulations establishing treatment standards that must be met before hazardous waste may be disposed of on land. The proposed

rulemaking establishes treatment standards for certain characteristic mineral processing wastes, wood preserving wastes, and TC metals. It also addresses issues arising from a September 25, 1992 decision of the U.S. Court of Appeals in *Chemical Waste Management v. EPA*, 976 F. 2d (D.C. Cir. 1992) on the equivalency of treatment in wastewater treatment systems regulated under the Clean Water Act to treatment of wastes under the Resource Conservation and Recovery Act (RCRA).

#### Statement of Need:

Land disposal of hazardous wastes can result in the contamination of groundwater and surface water and the emission of hazardous constituents to the air. Studies have indicated that these hazardous constituents can cause adverse human health and environmental effects. In addition, land disposal of untreated hazardous wastes can have significant economic effects, as demonstrated in the high costs of cleaning up past land disposal sites.

As a result of these problems, Congress, in section 3004 of RCRA, mandated that land disposal of hazardous waste is prohibited, unless the waste is treated to minimize threats to human health and the environment. In the phase IV final rule, EPA is targeting the potential risks of leaks and air emissions from surface impoundments that are part of wastewater treatment systems. Primary treatment surface impoundments and other surface impoundments that precede the biological treatment surface impoundment may pose a particular risk that untreated organic constituents could leak to groundwater. There is also a chance that hazardous constituents could be emitted into the air from an uncovered surface impoundment, thus this risk will also be addressed. In addition, EPA is satisfying its statutory mandate to promulgate treatment standards for wood preserving, toxicity characteristic metal, and mineral processing hazardous wastes.

#### Summary of the Legal Basis:

Portions of the rule are subject to a consent decree that requires promulgation of final treatment standards for wood preserving and toxicity characteristic metal wastes, and hazardous mineral processing wastes.

#### Alternatives:

In a final rule issued on May 8, 1990, EPA allowed certain hazardous wastes to be diluted rather than treated to meet

the land disposal restrictions (LDR) treatment standards when they were managed in surface impoundments regulated by the Clean Water Act (CWA). This approach was taken in order to harmonize the requirements of RCRA and CWA. EPA was sued on the 1990 final rule (*Chemical Waste Management, Inc. et al. (CWM) v. EPA*)<sup>1</sup>. In *CWM v. EPA*, the court held that these diluted wastes may be placed in a surface impoundment only if the underlying hazardous constituents in the waste are treated to the same extent as they would be under RCRA, such that threats to human health and the environment are minimized. As a direct result of the court decision, EPA entered into a settlement agreement which required EPA to examine whether treatment in a CWA (and CWA-equivalent) wastewater treatment surface impoundment is equivalent to treatment under RCRA LDR requirements. The Agency examined edquivalency under the two programs by looking at the potential for cross-media transfers of hazardous constituents in CWA and CWA-equivalent surface impoundments in the Phase IV proposal. It will be necessary to identify the Agency's final approach in the Phase IV final rule.

The Phase IV final rule will finalize EPA's decision on three proposed options to address the issue of whether EPA should establish RCRA controls for releases of hazardous constituents through air emissions, leaks to groundwater, and sludges from CWA and CWA-equivalent wastewater treatment surface impoundments. The proposal neutrally presented two options for addressing potential cross-media transfers. The first option was to rely on existing Clean Air Act (CAA) provisions to address air emissions, and on State programs and the RCRA industrial nonhazardous waste control mechanisms to address leaks and sludges. The second option was to rely on existing controls, but also establish LDR regulations to fill the gaps that were identified in existing regulations. As compliance alternatives for this option, EPA proposed a de minimis exclusion, and an approach for giving credit for pollution prevention activities that reduced the mass loadings of hazardous wastes to the environment. A third option, presented for completeness but believed to be inappropriate and costly, was to require that facilities comply with LDR treatment standards before placing their wastes in the wastewater treatment surface impoundments. If LDR standards were met before land

disposal in the surface impoundment, then the issue of equivalency would be moot.

Futhermore, under RCRA, the Agency was instructed to promulgate treatment standards for a waste within six months of the Agency determining that it is a hazardous waste. The Agency missed this deadline in a number of cases and was sued. The Phase IV final rule is subject to a consent decree that requires the establishment of treatment standards for wood preserving and toxicity characteristic metal wastes, and for hazardous mineral processing wastes. The treatment standards for hazardous mineral processing wastes will be proposed in a supplemental rule to be issued in December, 1995.

Treatment standards for wood preserving and toxicity characteristic metal wastes, as well as for hazardous mineral processing wastes, are based upon the performance of best demonstrated available technologies (BDAT). Section 3004(m) of RCRA requires that the treatment standards ensure substantial reductions in hazardous waste toxicity and mobility, such that threats to human health and the environment arising from subsequent land disposal are minimized. Variances from these treatment standards may be granted if a petitioner can show EPA that the waste is different from the waste EPA used to set the treatment standard or that the treatment is unavailable on a waste. In addition, if treatment is unavailable on a nationwide basis, or on a case-by-case basis, EPA may postpone the effective date of the treatment standards for up to four years.

#### Anticipated Costs and Benefits:

The Agency's analysis of the cost of addressing cross-media transfers indicates that under Option 1, no impacts would occur because the Agency proposed to defer to other regulations. For Option 2, annual compliance costs to facilities would range from an estimated \$10 to \$65 million. Estimated annual compliance costs to facilities under Option 3 would range from \$200 to \$300 million.

The Agency estimates annual incremental compliance costs of treating wood preserving wastes to be \$9.5 million. Costs to treat metal toxicity characteristic wastes to comply with the revised standards are expected to be minimal.

EPA estimates that cancer risks from leaks to groundwater at wastewater treatment systems range up to one in

one thousand. In one-fifth of samples with volatile organic constituents at the point of generation, concentrations exceeded the risk-based regulatory threshold established in the RCRA Subpart CC rule to control air emissions.

#### Risks:

Please see the previous section titled "Anticipated Costs and Benefits" for a discussion on risks.

#### Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	08/22/95	60 FR 43654
Final Action	06/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3366.

Reinventing Government: The options that were proposed for addressing cross-media transfers would encourage pollution prevention by allowing facilities to comply by reducing mass loadings of toxics to the environment through source reduction from wastestreams not directly at issue. An exemption from the options was proposed for de minimis levels of waste. Importantly, EPA seeks to preserve its partnership with States and Tribes by embracing their programs that control the cross-media transfer problems at issue. EPA also took the common-sense approach of crafting its options for cross-media transfers to fulfill its obligations and protect environmental resources without undue disruption to waste treatment systems that are already adequately protective of the environment. Additionally, the rule will focus on environmental risk by isolating for regulation those waste management scenarios that pose risks rather than imposing controls across the board. The Agency built in maximum flexibility so that those complying with the requirements can choose the most cost-effective means of limiting toxic releases or for treating wastes to meet LDR treatment standards. Furthermore, the Agency is mindful of the multi-media context of environmental problems and has designed the proposed rule to defer to existing federal programs to avoid duplication of regulation. Furthermore,

this rule will reduce the paperwork burden on the regulated community by revising a number of the LDR program's administrative requirements. Other regulatory changes will eliminate outdated regulations and clarify areas of the regulations that are confusing.

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RIN: 2050-AE05

#### EPA

#### 125. LAND DISPOSAL RESTRICTIONS—PHASE III: DECHARACTERIZED WASTEWATERS, CARBAMATE WASTES, AND SPENT ALUMINUM POTLINERS

#### Priority:

Economically Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

42 USC 6905, 6912(a), 6921, 6924

#### CFR Citation:

40 CFR 268

#### Legal Deadline:

Final, Judicial, January 1996.

#### Abstract:

The Environmental Protection Agency (EPA) will be proposing rules addressing a rule pursuant to the September 25, 1992, decision of the U.S. Court of Appeals in *Chemical Waste Management v. EPA*, 976 F. 2d (D.C. Cir. 1992). The underlying rule at issue was signed on May 8, 1990, and published on June 1, 1990 (55 FR 22520). The phase III proposal will establish treatment standards for formerly characteristic wastes primarily managed in land-based wastewater treatment systems whose ultimate discharge is regulated under the Clean Water Act. Treatment standards will also be established for newly listed carbamates and organobromine wastes. The phase IV proposal will address whether land-based wastewater systems provide treatment that is equivalent to that conducted under the Resource Conservation and Recovery Act (RCRA)

land disposal restrictions (LDR) program. Treatment standards will also be established for wood preserving and mineral-processing wastes.

#### Statement of Need:

Land disposal of hazardous wastes can result in the contamination of groundwater and surface water. Studies have indicated that these hazardous constituents can cause adverse human health and environmental effects. In addition, land disposal of untreated hazardous wastes can have significant economic effects, as demonstrated in the high costs of cleaning up past land disposal sites.

As a result of these problems, Congress, in section 3004 of RCRA, mandated that land disposal of hazardous waste is prohibited, unless threats to human health and the environment are minimized. In the phase III final rule, EPA is targeting the potential risks of discharges from surface impoundments that are part of wastewater treatment systems. Biological treatment surface impoundments may not treat all underlying hazardous constituents in RCRA characteristic wastes (that are diluted to remove the hazardous characteristic) to the same extent as those constituents would be treated using other technologies to achieve LDR treatment standards. In addition, characteristic wastes are often diluted and injected into deep wells, without actually being treated to minimize the potential threat of underlying hazardous constituents in that waste. These risks will be addressed by establishing LDR treatment standards that apply at the point of discharge from the impoundment or into an underground injection well (i.e., at "end-of-pipe"). In addition, EPA is promulgating treatment standards for carbamate wastes and spent aluminum potliners.

#### Summary of the Legal Basis:

The end-of-pipe treatment standards are subject to a consent decree that mandates that this rule be finalized by January, 1996.

#### Alternatives:

In a final rule issued on May 8, 1990, EPA allowed certain hazardous wastes to be diluted rather than treated to meet the LDR treatment standards when they were managed in surface impoundments regulated by the Clean Water Act (CWA). This approach was taken in order to harmonize the requirements of RCRA and CWA. EPA was sued on the 1990 final rule (*Chemical Waste Management, Inc. et*



*al. (CWM) v. EPA*). In *CWM v. EPA*, the court held that these diluted wastes may be placed in a surface impoundment only if the underlying hazardous constituents in the waste are treated to the same extent as they would be under RCRA, in such a way that threats to human health and the environment are minimized. As a direct result of the court decision, EPA entered into a settlement agreement which required EPA to establish treatment standards for any underlying hazardous constituents reasonably expected to be present in characteristic (i.e., ignitable, corrosive, reactive, or toxic) hazardous wastes that are diluted to remove the hazardous characteristic, that must be met at the point the waste is discharged to the water or the land, or injected into a deep well.

The phase III final rule will introduce two new LDR compliance options for deep injection wells: a de minimis exclusion for very small-volume hazardous waste streams that are mixed with other nonhazardous waste streams; and a pollution prevention option that allows facilities to reduce the mass loadings of underlying hazardous constituents to the same extent as they would be reduced by meeting the LDR treatment standards.

Furthermore, under RCRA, the Agency was instructed to promulgate treatment standards for a waste within 6 months of the Agency determining that it is a hazardous waste. The Agency missed this deadline in a number of cases. The phase III rule will promulgate treatment standards for two "newly listed" categories of hazardous wastes: wastes from carbamate production, and spent aluminum potliners.

All of the treatment standards in the phase III rule are based upon the performance of best demonstrated available technologies (BDAT). Section 3004(m) of RCRA requires that the treatment standards ensure substantial reductions in hazardous waste toxicity and mobility, in such a way that threats to human health and the environment arising from subsequent land disposal are minimized. Variances from these treatment standards may be granted if a petitioner can show EPA that the waste is different from the waste EPA used to set the treatment standard or that the treatment is inappropriate for the waste. In addition, if treatment is unavailable on a nationwide basis, or on a case-by-case basis, EPA may postpone the effective date of the treatment standards for up to 4 years.

#### Anticipated Costs and Benefits:

The Agency's analysis of the estimated one-time cost of establishing end-of-pipe treatment standards for characteristic wastes that are diluted and placed in treatment surface impoundment is \$0.9 - \$2.9 million. The estimated cost for treating characteristic hazardous wastes that are diluted and injected into UIC wells is \$9.2 - \$13.2 million for on-site treatment and \$486.5 - \$805.3 million for off-site treatment. The estimated annual cost for treating carbamate wastes and spent aluminum potliners is \$11.9 - \$47.3 million.

Benefit estimates for surface impoundments include loadings reductions between 36 and 407 tons/year for direct discharges, and between 1,490 and 24,391 tons/year for indirect discharges. In addition, cancer risks for two constituents, aniline and acrylamide will be reduced. EPA estimates that cancer risks from leaks to groundwater from deep injection wells are below regulatory concern. It is estimated that between 100,000 and 118,000 tons of spent aluminum potliners are generated annually. Improper management of these wastes has caused many serious past damage incidents. However, data are limited with regard to current management practices and risk levels. Because the quantity of waste is very small, benefits for newly listed carbamate wastes are expected to be minimal.

#### Risks:

Please see the previous section titled "Anticipated Costs and Benefits" for a discussion on risks.

#### Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	03/02/95	60 FR 11702
Final Action	01/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Additional Information:

SAN No. 3365.

Reinventing Government: The phase III rule would encourage pollution prevention by allowing facilities to comply by reducing mass loadings of toxics to the environment through source reduction from wastestreams not directly at issue. An exemption was proposed for de minimis levels of waste. Importantly, EPA seeks to avoid duplicative regulations by deferring in

all cases to limits established in a wastewater treatment system's CWA NPDES or pretreatment permit. LDR treatment standards would only apply in cases where the underlying upcoming EPA regulation that is currently underway. In this way, EPA is taking the common-sense approach to fulfill its obligations and protect environmental resources without undue disruption to waste treatment systems that are already adequately protective of the environment. The Agency built in maximum flexibility so that those complying with the requirements can choose the most cost-effective means of treating wastes to meet LDR treatment standards.

Furthermore, this rule will reduce the paperwork burden on the regulated community by creating minimal new recordkeeping requirements for wastewater treatment surface impoundments, and by revising some of the LDR programs's existing administrative requirements. Other regulatory changes will clarify existing areas of the regulations that are confusing.

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#### EPA

#### 126. COMPLIANCE ASSURANCE MONITORING PROGRAM (PREVIOUSLY ENHANCED MONITORING PROGRAM)

#### Priority:

Economically Significant

#### Legal Authority:

Clean Air Act Amendments of 1990, sections 114(a)(3), 503(b),; 504(b)

#### CFR Citation:

40 CFR 64; 40 CFR 70

#### Legal Deadline:

NPRM, Judicial, September 30, 1993. Final, Statutory, November 1992. Final, Judicial, July 1, 1996.

#### Abstract:

This action is required by the 1990 Clean Air Act (the Act) Amendments to assure better compliance with existing rules. This rule will require major stationary sources who must

obtain permits under title V of the Act to conduct monitoring that provides reasonable assurance of ongoing compliance of the significant emission units with applicable requirements. Affected sources will use the monitoring data in conjunction with other compliance-related data to certify compliance with emission standards and other permit conditions.

#### Statement of Need:

The Clean Air Act Amendments of 1990 require major stationary sources to provide ongoing monitoring and periodic certification of compliance. Current compliance data based on initial or periodic performance testing, provide only "snapshots" of the compliance status of stationary sources. Current minimal operation and maintenance monitoring of control technology performance, if applied, provides little assurance of continued good pollution control and little incentive for the source owner or operator to maintain or improve performance. The compliance assistance monitoring (CAM) rule would require owners or operators of emission sources to increase awareness of the operational status of pollution control technology and to act on discrepancies in that operation to reduce emissions. Certification of compliance would be based on a combination of compliance testing or other compliance data and demonstration of continued good control technology performance and appropriate and timely corrective action.

#### Alternatives:

The CAM program is designed to assure ongoing compliance with requirements under the Act. If owners or operators are already required to determine continuous compliance with emission limitations or standards, that satisfies the purpose of CAM and no additional assurance of compliance is necessary. If these circumstances do not exist, CAM would use a two-pronged approach to assure compliance. First, CAM would require that owners or operations have reasonable information available to them that can indicate potential problems in emission control performance. Second, CAM would require that owners or operators act on that information in a timely fashion to avoid (if preventable) or reduce (if not preventable) emission control problems that could result in excess emissions. This type of monitoring does not need to be so rigorous as to exactly determine or predict emission levels,

but rather should be sufficient to allow for reasonable optimization of the method used by a source to achieve ongoing compliance with emission limitations or standards under the Act.

This approach is consistent with President Clinton's regulatory reform initiatives and EPA's Common Sense Initiative in that it focuses on preventing pollution rather than imposing additional command-and-control regulations on regulated sources. This represents a significant change in Agency direction for implementation of the monitoring and compliance certification requirements in titles V and VII of the Act. The goal of CAM is to provide a reasonable assurance of compliance; rather than a direct connection between monitoring and certification, CAM allows for an indirect, symbiotic relationship between these two methods of assuring compliance. The result of this change will be to reduce the emphasis on assuring compliance through the threat of enforcement. Instead, CAM emphasizes assuring compliance by placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

#### Anticipated Costs and Benefits:

In keeping with Executive Order 12866, EPA will prepare a detailed regulatory impact analysis (RIA) that will provide costs and benefits associated with the CAM rule.

EPA believes that the adoption of CAM can result in tangible benefits for a facility. Although a self-monitoring program may not always be justified purely on the basis of economic benefit to a source, self-monitoring can, in some situations, reduce operating costs. For example, monitoring data can be used to increase combustion efficiency in an industrial boiler or to increase capture and reuse of solvents at a coating plant. The CAM approach will also alert owners or operators that potential control device problems may exist. The owner or operator can use this information to target control devices for routine maintenance and repair, and reduce the potential for costly breakdowns.

The Agency also believes that the CAM approach will result in tangible benefits to the general public health and welfare. A primary benefit of CAM will be a reduction in overall emissions through increased compliance with the requirements of the Act. The key elements of CAM that will provide these reductions are (a) the emphasis

on monitoring that alerts owners or operators to deteriorating control conditions and (b) the requirement that steps be taken to correct those conditions. This approach emphasizes minimizing emissions by avoiding or remedying as quickly as possible situations that may involve emissions in excess of applicable requirements. In addition to the direct environmental benefit of decreased emissions, increased compliance rates will also achieve a corollary economic benefit. As a general matter, increased compliance rates with existing rules will lower the long-term overall cost of air pollution control by decreasing the need for additional regulations to obtain necessary emission reductions, especially for nonattainment areas.

#### Risks:

Compliance Assurance Monitoring will apply to over 50,000 emission units nationally. The establishment of CAM requirements is estimated to impact about 97 percent of the emissions of carbon monoxide, nitrogen oxide, particulate matter, sulfur dioxide, and volatile organic compounds, as well as certain hazardous air pollutants such as benzene and mercury; exact reductions which will be obtained are yet to be determined. The CAM provisions will apply to existing Clean Air Act standards only; new regulations will incorporate continuous compliance monitoring provisions. As these new rules are developed, pollution reduction will be achieved beyond those obtained through CAM.

#### Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54648
Supplemental Proposal	12/28/94	59 FR 66844
Final Action	07/00/96	

#### Small Entities Affected:

None

#### Government Levels Affected:

None

#### Additional Information:

SAN No. 2942.

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RIN: 2060-AD18

**EPA****127. NAAQS: SULFUR DIOXIDE (REVIEW)****Priority:**

Economically Significant

**Legal Authority:**

42 USC 7409/CAA 109

**CFR Citation:**

40 CFR 50.4; 40 CFR 50.5

**Legal Deadline:**NPRM, Judicial, November 1, 1994.  
Final, Judicial, April 15, 1996.**Abstract:**

On November 15, 1994, the Environmental Protection Agency (EPA) published a notice announcing a proposed decision not to revise the existing 24-hour and annual primary standards. In that notice EPA sought public comment on the possible need to adopt additional regulatory measures to address short-term peak sulfur dioxide exposure and thereby further reduce the health risk to asthmatic individuals.

On March 7, 1995, EPA published the proposed requirements for implementation plans and ambient air quality surveillance for sulfur dioxide. The action proposes implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

**Statement of Need:**

Brief exposures to elevated concentrations of sulfur dioxide causes bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides a substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals. The EPA is presently assessing the public comments on the November 1994 proposal as well as the related implementation and air quality surveillance requirements and will announce a final decision on April 15, 1996.

**Alternatives:**

The November 15, 1994, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals

posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard.

**Anticipated Costs and Benefits:**

A draft regulatory impact analysis was completed and made available for public comment at the time of proposal.

**Risks:**

Exposure analyses were completed and made for public comment at the time of proposal. These analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

**Timetable:**

Action	Date	FR Cite
NPRM	11/15/94	59 FR 58958
NPRM NAAQS SO2 Implementation Plans (Part 51)	03/07/95	60 FR 12492
Final Action	04/00/96	
Final NAAQS SO2 Implementation Plans (Part 51)	00/00/00	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Local, Federal

**Additional Information:**

SAN No. 1002 (Primary Standard) and SAN No. 3588 (Implementation)  
Docket No. A-84-25.

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RIN: 2060-AA61

**EPA****128. MEDICAL WASTE INCINERATORS (MWI)****Priority:**

Economically Significant

**Legal Authority:**

Clean Air Act of 1990, section 129

**CFR Citation:**

40 CFR 60

**Legal Deadline:**

NPRM, Judicial, February 1995. Final, Statutory, November 1992. Final, Judicial, April 1996.

**Abstract:**

The Environmental Protection Agency (EPA) is developing new source performance standards (NSPS) for new MWIs and emission guidelines (EG) for existing MWIs under sections 111 and 129 of the Clean Air Act. The NSPS are to reflect the maximum degree of reduction in emissions that is achievable for new units. The EG may be less stringent than the standards for new units. States must submit plans for implementing and enforcing the guidelines. Section 129 requires that emission limits be established for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins, and dibenzofurans. These standards are being developed under EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan. Two other elements of this strategy, the emission standards for municipal waste combustion and hazardous waste combustion, are summarized elsewhere in this Regulatory Plan.

EPA is working intensively with MWI owners and operators, as well as with other stakeholders, to assure that this rule is based on the best understanding of the industry, and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways, including the transfer of wastes to larger, more efficient regional facilities.

**Statement of Need:**

The medical waste incinerator rules will establish emission limits for dioxins, particulate matter, carbon monoxide, cadmium, lead, mercury, sulfuric acid, hydrochloric acid, and nitrogen oxide. These rules will establish emission limits that will reflect maximum achievable control technology (MACT), as defined by section 129, to reduce emissions of the above pollutants.

**Alternatives:**

The Clean Air Act specifies that the emission guidelines and the new source

performance standards be based on MACT, and that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing 12 percent of units; and for new sources, can be no less stringent than the best-performing similar source. All control technologies for each pollutant as stringent as the floor or more stringent have been analyzed during the development of the standard.

#### Anticipated Costs and Benefits:

The annualized cost of the proposed standards for new incinerators will be in the range of \$75 million to \$215 million. The annualized cost of implementing the proposed guidelines for existing incinerators will be in the range of \$350 million to \$1.2 billion. The combined proposed standards and guidelines will result in reductions of dioxin emissions by more than 99 percent, as will reductions in the 90 percent to 98 percent range for particulate matter, cadmium, lead, mercury, hydrogen chloride, and carbon monoxide.

#### Risks:

Medical waste incinerators are among the larger sources of dioxin emissions in the country. Because of the adverse effects of dioxin emissions on the public health and ecosystems, it is one of the Agency's highest priorities to reduce the exposure to dioxin emissions.

#### Timetable:

Action	Date	FR Cite
NPRM	02/27/95	60 FR 10654
Final Action	04/00/96	

#### Small Entities Affected:

Businesses, Governmental Jurisdictions

#### Government Levels Affected:

State, Local, Tribal, Federal

#### Additional Information:

SAN No. 2719.

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RIN: 2060-AC62

#### EPA

### 129. NSPS: MUNICIPAL WASTE COMBUSTION—PHASE II AND PHASE III, INDUSTRIAL-COMMERCIAL WASTE INCINERATORS, AND OTHER SOLID WASTE INCINERATORS

#### Priority:

Economically Significant

#### Legal Authority:

42 USC 4111/Clean Air Act  
Amendments of 1990, section 129

#### CFR Citation:

40 CFR 60

#### Legal Deadline:

NPRM, Statutory, November 1991, for Phase II/Large MWCs.

NPRM, Statutory, November 1992, for Phase III/Small MWCs.

NPRM, Judicial, September 1, 1994, for Municipal Waste Combustors (MWC's).

Final, Judicial, September 1, 1995, for Municipal Waste Combustors (MWC's), Extension request for 10/ 31/95.

NPRM, Judicial, March 1, 1996, for Industrial-Commercial Waste Incinerators (ICWI).

Final, Judicial, March 1, 1997, for Industrial-Commercial Waste Incinerators (ICWI).

#### Abstract:

The Clean Air Act Amendments of 1990 direct the Environmental Protection Agency (EPA) to set standards of performance and emission guidelines for new and existing municipal waste combustors under Sections 111 and 129; to base these standards and guidelines on maximum achievable control technology; and to include emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, mercury, lead, cadmium, and dioxins and dibenzofurans. The standards for both large and small municipal waste combustors have been combined into one set of standards. The industrial-commercial waste incinerator standard and other solid waste incinerator standards will be managed as separate projects and separate standards will be developed. These standards are being developed under EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan. Two other elements of this strategy, the emission standards for medical waste and hazardous waste combustion, are summarized elsewhere in this Regulatory Plan.

#### Statement of Need:

The municipal waste combustor rules will establish emission limits for dioxins, particulate matter, cadmium, lead, mercury, SO<sub>2</sub>, HCl, and NO<sub>x</sub>. These rules will require maximum achievable control technology (MACT) as defined by section 129 to be installed on all applicable facilities to reduce emissions of the above pollutants.

#### Alternatives:

The Clean Air Act specifies that the emission guidelines and the new source performance standards be based on MACT and that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing 12 percent of units and/or new sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The EPA has reviewed all alternatives analyzed to assure they are no less stringent than the MACT "floor."

For the industrial-commercial waste incinerator standard and other solid waste incinerator standards on control alternatives have not been developed or analyzed at this time, and the potential cost and benefits are unknown. It is anticipated that the same type of controls used under the municipal waste combustor standard will be evaluated for industrial-commercial waste incinerators and other solid waste incinerators.

#### Anticipated Costs and Benefits:

The annualized cost for the new source performance standards for new municipal waste combustors will be less than \$43 million. The annualized cost for the emission guidelines for existing municipal waste combustors will be less than \$445 million. Dioxin, particulate matter, cadmium, and lead emissions will be reduced by more than 99 percent. Mercury emissions will be reduced by 85 percent, sulfuric acid and hydrochloric acid emissions by 95 percent, and nitrogen oxide (NO<sub>x</sub>) emissions by 45 percent. The quantified benefits associated with the rule and the guidelines are in excess of \$266 million per year, but the benefit assessment is incomplete at this time. In particular, the current benefit estimate does not include benefits for the control of dioxin, mercury, lead, cadmium, NO<sub>x</sub>, or carbon monoxide. No evaluation of these pollutants is possible at this time.

For the industrial-commercial waste incinerator standard and the other solid

waste incinerator standard, no control alternatives have been developed or analyzed at this time, and the potential cost is unknown. It is anticipated that the same type of controls used for the municipal waste combustor standard will be evaluated for industrial-commercial and other solid waste incinerator standards.

#### Risks:

Municipal waste combustors are among the larger sources of dioxin emissions in the country. Because of the adverse effects of dioxin emissions on the public health and ecosystems, it is one of the Agency's highest priorities to minimize public exposure to dioxin.

#### Timetable:

Action	Date	FR Cite
NPRM	09/20/94	59 FR 48198
Final Action	10/00/95	

#### Small Entities Affected:

Governmental Jurisdictions

#### Government Levels Affected:

State, Local, Federal

#### Additional Information:

SAN No. 2916.

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RIN: 2060-AD00

#### EPA

### 130. OPEN-MARKET TRADING RULE FOR OZONE PRECURSORS

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

Clean Air Act, sections 182 and 187

#### CFR Citation:

40 CFR 51

#### Legal Deadline:

None

#### Abstract:

The Environmental Protection Agency (EPA) will issue a final policy and model rule for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility than ever before for companies to trade emission credits without prior State or Federal approval. After issuance by EPA, any State that adopts an identical rule will receive automatic EPA approval of its rule. Once the rule is in the State implementation plan (SIP), companies could engage in emissions trades without prior regulatory approval as long as accountability is ensured in accordance with the rule. The intended benefits of an active market in emissions trading are compliance with the ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

#### Statement of Need:

In the last 25 years great progress has been made toward achieving healthy air quality, yet more than 100 million people still live in areas that do not meet the ozone health standard. Continued reductions in ozone precursor emissions are important to protect public health, but additional emission reductions are increasingly more costly to obtain. Emissions trading is one way to lower the overall cost of achieving additional reductions. Historically, the volume of emissions trading under EPA's existing trading policies has been low, suggesting high transaction costs associated with the delays of trade-by-trade government review. Additionally, there have been significant problems of quality control, reducing the environmental effectiveness of the program. EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance quality control.

#### Alternatives:

The EPA endorses several forms of emissions trading, including interfacility and intrafacility emissions bubbling under the 1986 Emissions Trading Policy Statement, and emissions budget programs which cap areawide emissions from major emitters. The open-market program is yet another form of emissions trading that can reduce the overall cost of compliance with the ozone standard.

#### Anticipated Costs and Benefits:

Market-based emissions trading programs allow for greater and/or faster reductions in emissions, lower the cost of pollution control, reduce the adverse impacts of regulation on industry and consumer prices, lower the human health consequences, and improve the environment by achieving early reductions, and provide incentives to develop lower-costs pollution control methods. The actual benefits of open-market trading programs depend on a number of variables, including the number of States that adopt such programs and the number of sources that participate. Estimates of costs savings from established emissions-trading programs such as the nationwide acid rain trading program, the RECLAIM program in the Los Angeles area, and the lead phasedown range from nearly 20 to over 40 percent.

#### Risks:

Not applicable.

#### Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39668
Final	06/00/96	

**Inclusion of Model Rule**  
Notice 08/25/95 (60 FR 44290)

#### Small Entities Affected:

None

#### Government Levels Affected:

State, Local, Tribal, Federal

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3660.

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RIN: 2060-AF60

#### EPA

### 131. REVIEW OF THE FEDERAL TEST PROCEDURE FOR EMISSIONS FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

#### Priority:

Economically Significant

**Legal Authority:**

PL 101-549, Sec 208

**CFR Citation:**

40 CFR 86

**Legal Deadline:**

NPRM, Judicial, January 31, 1995.  
Final, Statutory, May 15, 1992. Final,  
Judicial, April 30, 1996. Other, Judicial,  
May 15, 1993.

Original statutory deadline (5/15/92) is  
from 11/90 Clean Air Act Amendments.  
Other Judicial date: per U.S. District  
Court Consent Decree, EPA issued a  
preliminary technical report on  
5/15/93.

**Abstract:**

Section 206(h) of the Clean Air Act  
requires the Environmental Protection  
Agency (EPA) to "review and revise as  
necessary" the regulations governing  
the Federal Test Procedure (FTP) to  
"insure that vehicles are tested under  
circumstances which reflect the actual  
current driving conditions under which  
motor vehicles are used, including  
conditions relating to fuel, temperature,  
acceleration, and altitude." The driving  
behavior used for the FTP was adopted  
over 20 years ago, and accumulated  
research suggests that it no longer  
adequately represents overall vehicle  
emission control performance under  
current driving conditions.

This action revises the FTP used to  
design all Federal emissions test  
methods, as well as all federally  
approved methods of estimating and  
projecting emissions from automobiles.  
This revision will advance the Agency's  
strategic aim of using better science and  
better data by assuring that automobiles  
can be accurately tested for compliance  
with Federal standards, and it will also  
enable EPA and others to obtain  
accurate emission inventories and  
projections to assist in planning for  
attainment of national air quality  
standards.

**Statement of Need:**

Extensive surveys of current driving  
behavior conducted by the EPA  
indicate significant difference between  
actual driving behavior and the current  
FTP. New test cycles determined from  
the driving behavior surveys were used  
to compare emissions predicted by the  
FTP with emissions that occur in actual  
driving. The test results support the  
need to control emissions at high  
speeds, acceleration, and during air  
conditioner operation, modes that are  
not adequately controlled with the  
current test procedures.

**Summary of the Legal Basis:**

EPA is under court order to revise the  
FTP.

**Alternatives:**

The Clean Air Act specifies that the  
test procedures reflect actual driving  
conditions. Extensive research indicates  
that the existing procedures are  
severely deficient in the areas of high  
speeds, high accelerations, and air  
conditioning operation. The most  
appropriate method of controlling  
emissions during these conditions have  
been analyzed during the development  
of this rulemaking.

**Anticipated Costs and Benefits:**

The per vehicle cost to comply with  
the test procedure revisions is expected  
to be well under \$10 and the  
annualized cost less than \$100 million.  
Overall hydrocarbon emissions from  
light-duty vehicles and trucks are  
expected to be reduced by about 6  
percent, carbon monoxide emission by  
about 18 percent, and NOx emissions  
by about 12 percent. On a national  
basis, the cost of reducing non-methane  
hydrocarbon and NOx emissions is  
expected to be about \$200 per ton.

**Risks:**

The risks addressed by this action are  
those associated with not attaining the  
National Ambient Air Quality  
Standards for ozone, carbon monoxide,  
nitrogen oxides, and particulates. These  
risks have been extensively detailed as  
part of the individual rulemakings  
setting these national standards.  
Achievement and maintenance of  
attainment of the standards depend in  
part on accurate knowledge of the  
emissions characteristics of sources,  
including automobiles. This action will  
increase the accuracy of such  
knowledge by incorporating the latest  
techniques of emission measurement.

**Timetable:**

Action	Date	FR Cite
NPRM	02/07/95	60 FR 7404
Final Action	04/00/96	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Additional Information:**

SAN No. 3323.

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RIN: 2060-AE27

**EPA****132. RISK MANAGEMENT PROGRAM  
FOR CHEMICAL ACCIDENTAL  
RELEASE PREVENTION****Priority:**

Economically Significant

**Legal Authority:**

PL 101-549; Clean Air Act Section  
112(r)

**CFR Citation:**

40 CFR 86

**Legal Deadline:**

Final, Statutory, November 15, 1993.  
Other, Judicial, March 29, 1996.

Court Decree - Settlement Agreement

**Abstract:**

Section 112(r)(7) of the Clean Air Act  
(CAA), as amended, required the  
Environmental Protection Agency (EPA)  
to promulgate by November 15, 1993,  
reasonable regulations and appropriate  
guidance to provide for prevention and  
detection of accidental releases of  
chemicals and for response to such  
releases. The regulations shall require  
the owner or operator of stationary  
sources at which a regulated substance  
is present to prepare and implement a  
risk management plan (RMP) that must  
include a hazard assessment that  
evaluates the potential effects of an  
accidental release of any regulated  
substance and must also include a five-  
year accident release history. The RMP  
must document a prevention program  
and document a response program that  
provides specific actions to be taken to  
protect human health and the  
environment in response to a release.  
The RMPs must be registered with EPA  
and must be submitted to the State in  
which the facility is located and to any  
local agency that has responsibility for  
planning for or responding to chemical  
accidents. EPA must establish a system  
for auditing the RMPs to ensure that  
plans are periodically updated.

EPA published a notice of proposed  
rulemaking on October 20, 1993. In

reviewing close to 1,000 comments received, the Agency recognized the need for a supplemental notice to clarify some of the issues raised by commenters and seek additional public comments on several of the issues. The supplemental notice was signed by the Administrator on February 28, 1995. The deadline for the final RMP rule is March 29, 1996, following which, regulated sources will have three years to comply with the RMP requirements.

EPA promulgated a list of substances and thresholds on January 30, 1994 (59 FR 4478), which determines which facilities must comply with the accident prevention regulations. The regulated universe includes small businesses and state/local/and tribal governments that have more than a threshold quantity of a regulated substance. In order to minimize the impact on smaller sources, EPA is planning to develop model RMPs for industry sectors that utilize similar equipment and handle a single chemical. To further reduce the burden on medium and smaller sources, EPA is planning to develop "lookup tables" for at least the most ubiquitous chemicals that facilities could use in the evaluation of their offsite consequence analysis based on worst-case scenarios.

Model RMPs and "lookup tables" will also ease the burden on State and local agencies responsible for implementing the program and who will review the adequacy and quality of the RMP.

#### **Statement of Need:**

Existing Federal regulations addressing the potential for catastrophic events related to chemical substances are focused on emergency preparedness and response. Specifically, the Emergency Planning and Community Right-to-Know Act (EPCRA) established the structure at the State and local levels to deal with emergency planning and response to chemical accidents. Several other laws and programs at the Federal level dealt with emergency response to chemical accidents: the Clean Water Act and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) created the National Oil and Hazardous Substance Pollution Contingency Plan (NCP). The NCP sets up the Federal Government's emergency response structure and procedures for responding to chemical accidents. The accidental-release prevention provisions under the CAA recognize the need for integrating emergency preparedness and response

with activities to prevent accidental releases from occurring in the first place.

The proposed rule for the prevention and detection program, including RMPs for accidental-release prevention, required industry to develop an integrated, holistic approach to managing the risk posed by the presence and use of regulated substances. In the development of its risk management program, EPA has also been coordinating with the Occupational Safety and Health Administration (OSHA). EPA's proposed RMP rule adopts and builds on process safety management elements included in OSHA's chemical process safety standard required under section 304 of the CAA amendments of 1990. (OSHA published a notice of proposed rulemaking (NPRM) on July 17, 1990, 55 FR 29150, and a final rule on February 24, 1992, 57 FR 6316.) These elements include process information, process hazard analysis, standard operating procedures, training, prestartup reviews, mechanical integrity, management of change, accident investigation, safety audits, and emergency response.

#### **Summary of the Legal Basis:**

The legal basis for this rulemaking is summarized in the "Abstract" section.

#### **Alternatives:**

EPA developed its proposed rule after an extensive information-gathering effort. Three States--California, New Jersey, and Delaware--have risk-management plan requirements under State laws. EPA met with officials in all three States and held interviews with seven facilities in these States. EPA then held eight focus groups, five with facilities and three with implementing agencies, in the three States to solicit their opinions on existing and proposed regulations. Finally, EPA held a 2-day roundtable seminar associated with the risk management planning requirements. State officials, trade associations, labor unions, environmentalists, and organizations of public officials participated in the discussions.

EPA evaluated two options for the risk management program: Program Option 1, the proposed rule, included the statutorily mandated elements (hazard assessment, registration, emergency response program, and risk management plan) plus the mandated prevention program that adopted OSHA's process safety management standard. Program Option 2, based on

the New Jersey risk management program, includes all listed elements but requires a greater level of documentation and more detailed requirements for many elements.

#### **Anticipated Costs and Benefits:**

Because, from an economic perspective, the RMP regulations and the list of regulated substances are inseparable, EPA prepared a regulatory impact analysis (RIA) that combines the two requirements. As indicated in the previous section, the RIA evaluated two options for the risk management program. Because the two program options cover the same elements with the only difference between the two the level of detail, it was not possible to develop separate estimates of the benefits for the two program options based on data available. Consequently, only one set of benefits estimates was developed.

EPA's proposed option is list 2 in Program Option 1, which is estimated to have an initial cost of \$503 million and quantifiable annual benefits of \$890 million. The proposed rule is expected to result in other, nonquantifiable benefits as well. By reducing the likelihood of accidental releases and the likelihood that any release will be catastrophic, the rule should reduce facility operating costs which may result in greater output, higher wages, and lower costs for the output. The rule will also encourage facilities to reduce the quantity of hazardous substances stored onsite and to shift to less toxic chemicals, reducing the risk to both workers and the public. Finally, the information provided to the public through the mandated RMP will be useful to both the public and governments at all levels.

#### **Timetable:**

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54190
Supplemental NPRM	03/13/95	60 FR 13526
Final Action	03/00/96	

#### **Small Entities Affected:**

Undetermined

#### **Government Levels Affected:**

State, Local, Federal

#### **Analysis:**

Regulatory Flexibility Analysis

#### **Additional Information:**

SAN No. 2979.

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**RIN:** 2050-AD26

**BILLING CODE** 6560-50-F